FLETCHER & SIPPEL LLC

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August 1, 2011

VIA FEDERAL EXPRESS

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W., Room 1034
Washington, DC 20024

Re: **Finance Docket No. 35537**
Genesee & Wyoming Inc. -- Control Exemption --
Arizona Eastern Railway Company

230750

Dear Ms. Brown:

Enclosed for filing in the above-captioned proceeding are an original and ten copies of the **Verified Notice of Exemption of Genesee & Wyoming Inc. Pursuant to 49 C.F.R. § 1180.2(d)(2)**, dated August 1, 2011. A check in the amount of $1,300, representing the appropriate fee for this filing, is attached. A compact disk containing the listing of carriers in the Appendix to the Notice in MS Word 2003 format is also attached.

One extra copy of the Notice and this letter are enclosed as well. I would request that you date-stamp those items to show receipt of this filing and return them to me in the provided envelope.

If you have any questions regarding this filing, please feel free to contact me. Thank you for your assistance on this matter.

Respectfully submitted,

Thomas J. Litwiler
Attorney for Genesee & Wyoming Inc.

TJL:tl

Enclosures

ORIGINAL

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 35537

GENESEE & WYOMING INC.
-- CONTROL EXEMPTION --
ARIZONA EASTERN RAILWAY COMPANY

VERIFIED NOTICE OF EXEMPTION
OF
GENESEE & WYOMING INC.
PURSUANT TO 49 C.F.R. § 1180.2(d)(2)

Janet H. Gilbert
Thomas J. Litwiler
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 920
Chicago, Illinois 60606-2832
(312) 252-1500

ATTORNEYS FOR
GENESEE & WYOMING INC.

Dated: August 1, 2011

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 35537

GENESEE & WYOMING INC.
-- CONTROL EXEMPTION --
ARIZONA EASTERN RAILWAY COMPANY

VERIFIED NOTICE OF EXEMPTION
OF
GENESEE & WYOMING INC.
PURSUANT TO 49 C.F.R. § 1180.2(d)(2)

Genesee & Wyoming Inc. ("GWI"), a non-carrier, hereby files this notice of exemption under 49 C.F.R. § 1180.2(d)(2) to obtain control of Arizona Eastern Railway Company ("AZER"), a Class III rail carrier, through the purchase of all of AZER's stock from Permian Basin Railways, Inc. ("Permian Basin"). GWI currently controls fifty-eight other Class II and Class III rail carriers across the United States.

AZER's rail lines do not connect with the lines of the other regulated rail carriers controlled by GWI, and this control transaction is not part of a series of anticipated transactions that would result in such a connection. Nor does this proposed control transaction involve a Class I carrier. GWI's acquisition of control of AZER is accordingly exempt under 49 C.F.R. § 1180.2(d)(2).

In accordance with the requirements of 49 C.F.R. § 1180.4(g), GWI submits the following information:

Description of Proposed Transaction: 49 C.F.R. § 1180.6(a)(1)(i)

GWI is a publicly-traded, non-carrier holding company which currently controls directly or indirectly the one Class II rail carrier and fifty-seven Class III rail carriers listed in the Appendix to this Notice.[1] Most recently, the Board in late 2008 approved GWI's acquisition of control of the ten railroads comprising the so-called "Ohio Central" system. See Genesee & Wyoming Inc. -- Control Exemption -- Aliquippa & Ohio River Railroad Co., et al., Finance Docket No. 35177 (STB served December 30, 2008).

AZER is a Class III rail carrier which owns and operates approximately 200 route miles of rail line between Bowie and Miami, Arizona and between Lordsburg, New Mexico and Clifton, Arizona. See Arizona Eastern Railway Company -- Acquisition and Operation Exemption -- Globe Branch of Southern Pacific Transportation Company, Finance Docket No. 31341 (ICC served October 31, 1988); Arizona Eastern Railway, Inc. -- Acquisition and Operation Exemption -- Union Pacific Railroad Company, Finance Docket No. 35109 (STB served December 18, 2007).[2] AZER also holds overhead trackage rights enabling it to operate over a line of Union Pacific Railroad Company ("UP") between Bowie and Lordsburg, with an interchange with UP at Lordsburg. Arizona Eastern Railway, Inc. -- Trackage Rights Exemption -- Union Pacific Railroad Company, Finance Docket No. 35115 (STB served January

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[1] Four of the listed GWI subsidiaries are non-operating carriers which simply hold property that is operated by another GWI carrier. Allegheny & Eastern Railroad, LLC and Pittsburg & Shawmut Railroad, LLC hold property that is operated by Buffalo & Pittsburgh Railroad, Inc. Maryland and Pennsylvania Railroad, LLC and Yorkrail, LLC hold the property that is operated by York Railway Company. Another GWI carrier has recently obtained authority to abandon all of its remaining rail lines. See Western Kentucky Railway, LLC -- Abandonment Exemption -- In Webster, Union, Caldwell and Crittenden Counties, KY, Docket No. AB-449 (Sub-No. 3X) (STB served January 20, 2011). The state(s) in which each GWI carrier owns or operates rail property is provided in the Appendix.

[2] AZER has obtained authority to construct a 12-mile rail line near Safford, Arizona, on the Bowie-Miami line. Arizona Eastern Railway, Inc. -- Construction Exemption -- In Graham County, AZ, Finance Docket No. 34836 (STB served June 15, 2009).

25, 2008). AZER is a wholly-owned subsidiary of Permian Basin, which in turn is a wholly-owned subsidiary of Iowa Pacific Holdings, LLC ("IPH"), another non-carrier holding company. See Permian Basin Railways, Inc. -- Acquisition of Control Exemption -- Arizona Eastern Railway Company, Inc., Finance Docket No. 34614 (STB served December 22, 2004). AZER primarily handles traffic related to the copper industry.

Pursuant to a Stock Purchase Agreement dated as of August 1, 2011 by and between GWI, AZER, Permian Basin and IPH, GWI proposes to acquire all of AZER's stock from Permian Basin and assume control of AZER. No significant changes in the rail service currently provided by AZER are anticipated as a result of the proposed transaction.[3] As it does with its other rail carrier subsidiaries, GWI will provide certain administrative and operational support for AZER.

AZER does not connect with the lines of any existing GWI rail carrier. GWI does not currently conduct operations in the states of Arizona or New Mexico, and the closest GWI railroad is Utah Railway Company, which operates in Colorado and Utah.

The full name and address of the applicant herein is:

Genesee & Wyoming Inc.
66 Field Point Road
Greenwich, CT 06830
(203) 629-3722

Any questions concerning this Notice should be sent to GWI's representative at the following address:

[3] The Stock Purchase Agreement neither prohibits AZER from nor penalizes AZER for interchanging traffic with a railroad not owned or controlled by GWI, Permian Basin or IPH. Cf. 49 C.F.R. § 1180.4(g)(4); Disclosure of Rail Interchange Commitments, Ex Parte No. 575 (Sub-No. 1) (STB served May 29, 2008). As noted above, AZER connects solely with UP.

Thomas J. Litwiler
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Chicago, Illinois 60606-2832
(312) 252-1500

Proposed Schedule for Consummation: 49 C.F.R. § 1180.6(a)(1)(ii)

GWI intends to consummate its proposed control of AZER on September 1, 2011, thirty days after the filing of this notice of exemption. See 49 C.F.R. § 1180.4(g)(1).[4]

Purpose Sought to Be Accomplished: 49 C.F.R. § 1180.6(a)(1)(iii)

The exemption sought herein will allow GWI to exercise common control of AZER and GWI's existing rail carrier subsidiaries.

States in Which Property of Applicants is Located: 49 C.F.R. § 1180.6(a)(5)

GWI is a non-carrier holding company and does not directly own any rail property. AZER owns and operates rail property in the states of Arizona and New Mexico. GWI's existing rail carrier subsidiaries own or lease and operate over rail property located in twenty-three states, as shown in the Appendix.

Map - Exhibit 1: 49 C.F.R. § 1180.6(a)(6)

A map showing the rail lines of AZER in the states of Arizona and New Mexico is attached hereto as Exhibit 1A. A map showing generally the location of GWI's existing rail carrier subsidiaries in the United States is attached hereto as Exhibit 1B.

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[4] In the event that GWI were to acquire the stock of AZER from Permian Basin prior to September 1, 2011, GWI would immediately place the stock into an irrevocable, independent voting trust pursuant to the guidelines of 49 C.F.R. § 1013, pending the effectiveness of the exemption invoked by this notice. GWI would notify the Board of any such occurrence and would submit a copy of the agreement governing the voting trust for AZER's stock.

Agreement - Exhibit 2: 49 C.F.R. § 1180.6(a)(7)(ii)

A redacted version of the Stock Purchase Agreement dated August 1, 2011 by and between GWI and AZER, Permian Basin and IPH is attached hereto as Exhibit 2. An unredacted copy of the Stock Purchase Agreement is being submitted under seal subject to a motion for protective order filed concurrently herewith.

Labor Protective Conditions: 49 C.F.R. § 1180.4(g)(1)(i)

The proposed transaction involves the control of one Class II carrier (GWI's existing subsidiary Buffalo & Pittsburgh Railroad, Inc.) and multiple Class III rail carriers (GWI's remaining existing rail carrier subsidiaries and AZER). Accordingly, the transaction is subject to the labor protection requirements of 49 U.S.C. § 11326(b).

Environmental and Historic Preservation Matters: 49 C.F.R. § 1180.4(g)(3)

Under 49 C.F.R. § 1105.6(c)(2)(i), the proposed control transaction is exempt from environmental reporting requirements. GWI's acquisition of control of AZER will not result in significant changes in carrier operations, i.e., changes that exceed the thresholds established in 49 C.F.R. § 1105.7(e)(4) or (5).

Under 49 C.F.R. § 1105.8(b)(3), GWI's proposed control of AZER also is exempt from historic preservation reporting requirements. That control transaction will not substantially change the level of maintenance of any railroad property.

Respectfully submitted,

By: _____

Janet H. Gilbert
Thomas J. Litwiler
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 920
Chicago, Illinois 60606-2832
(312) 252-1500

ATTORNEYS FOR
GENESEE & WYOMING INC.

Dated: August 1, 2011

APPENDIX

GWI-CONTROLLED RAIL CARRIERS

Class II Carriers

Buffalo & Pittsburgh Railroad, Inc. [New York, Pennsylvania]

Class III Carriers

Allegheny & Eastern Railroad, LLC [Pennsylvania]
Aliquippa & Ohio River Railroad Co., The [Pennsylvania]
AN Railway, L.L.C. [Florida]
Arkansas Louisiana & Mississippi Railroad Company [Arkansas, Louisiana]
Atlantic and Western Railway, Limited Partnership [North Carolina]
Bay Line Railroad, L.L.C., The [Alabama, Florida]
Chattahoochee Bay Railroad, Inc. [Alabama, Georgia]
Chattahoochee Industrial Railroad [Georgia]
Chattooga & Chickamauga Railway Co. [Georgia, Tennessee]
Columbus and Greenville Railway Company [Mississippi]
Columbus and Ohio River Rail Road Company, The [Ohio]
Commonwealth Railway, Incorporated [Virginia]
Corpus Christi Terminal Railroad, Inc. [Texas]
Dansville and Mount Morris Railroad Company, The [New York]
East Tennessee Railway, L.P. [Tennessee]
First Coast Railroad Inc. [Florida, Georgia]
Fordyce and Princeton R.R. Co. [Arkansas]
Galveston Railroad, L.P. [Texas]
Genesee and Wyoming Railroad Company [New York]
Georgia Central Railway, L.P. [Georgia]
Georgia Southwestern Railroad, Inc. [Alabama, Georgia]
Golden Isles Terminal Railroad, Inc. [Georgia]
Illinois & Midland Railroad, Inc. [Illinois]
KWT Railway, Inc. [Kentucky, Tennessee]
Little Rock & Western Railway, L.P. [Arkansas]
Louisiana & Delta Railroad, Inc. [Louisiana]
Luxapalila Valley Railroad, Inc. [Alabama, Mississippi]
Mahoning Valley Railway Company, The [Ohio]
Maryland and Pennsylvania Railroad, LLC [Pennsylvania]
Maryland Midland Railway, Inc. [Maryland]
Meridian & Bigbee Railroad, L.L.C. [Alabama, Mississippi]
Ohio and Pennsylvania Railroad Company [Ohio]
Ohio Central Railroad, Inc. [Ohio]
Ohio Southern Railroad, Inc. [Ohio]
Pittsburg & Shawmut Railroad, LLC [Pennsylvania]
Pittsburgh & Ohio Central Railroad Company, The [Pennsylvania]

Class III Carriers (cont.)

Portland & Western Railroad, Inc. [Oregon]
Riceboro Southern Railway, LLC [Georgia]
Rochester & Southern Railroad, Inc. [New York]
Salt Lake City Southern Railroad Company, Inc. [Utah]
Savannah Port Terminal Railroad Inc. [Georgia]
South Buffalo Railway Company [New York]
St. Lawrence & Atlantic Railroad Company [Maine, New Hampshire, Vermont]
St. Lawrence & Atlantic Railroad (Quebec) Inc. [Vermont]
Talleyrand Terminal Railroad Company, Inc. [Florida]
Tazewell & Peoria Railroad, Inc. [Illinois]
Tomahawk Railway, Limited Partnership [Wisconsin]
Utah Railway Company [Colorado, Utah]
Valdosta Railway, L.P. [Georgia]
Warren & Trumbull Railroad Company, The [Ohio]
Western Kentucky Railway, L.L.C. [Kentucky]
Willamette & Pacific Railroad, Inc. [Oregon]
Wilmington Terminal Railroad, Limited Partnership [North Carolina]
York Railway Company [Pennsylvania]
Yorkrail, LLC [Pennsylvania]
Youngstown & Austintown Railroad, Inc. [Ohio]
Youngstown Belt Railroad Company, The [Ohio]

EXHIBIT 1A

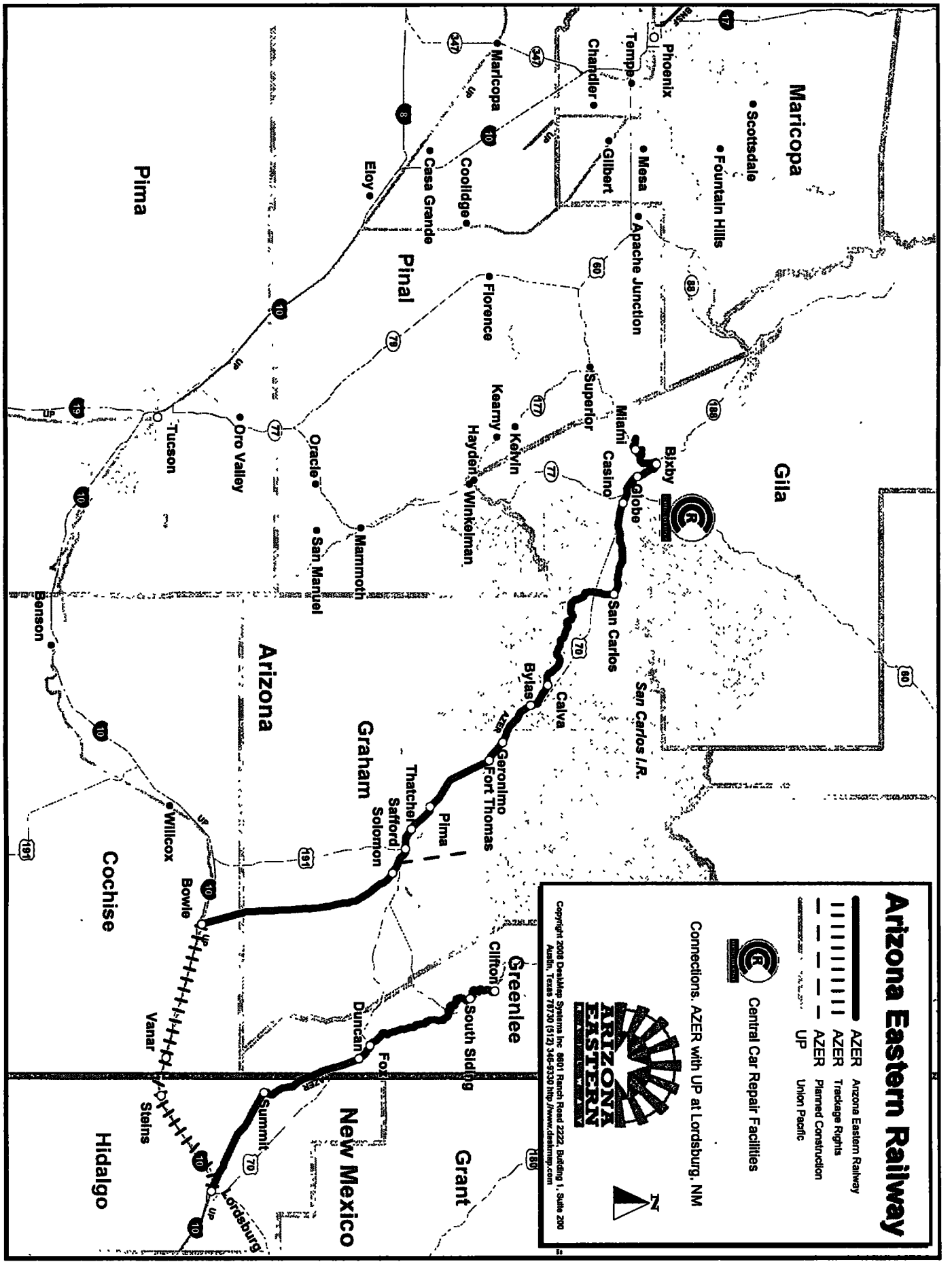
Arizona Eastern Railway
AZER Arizona Eastern Railway
AZER Trackage Rights
AZER Planned Construction
UP Union Pacific
Central Car Repair Facilities
Connections. AZER with UP at Lordsburg, NM
ARIZONA EASTERN
Copyright 2008 DeskMap Systems Inc. 8601 Ranch Road 2222, Building 1, Suite 200 Austin, Texas 78730 (512) 346-9330 http://www.deskmap.com
Maricopa
Pima
Pinal
Gila
Cochise
Graham
Greenlee
Arizona
New Mexico
Hidalgo
Grant
Phoenix
Tempe
Chandler
Mesa
Gilbert
Scottsdale
Fountain Hills
Apache Junction
Superior
Miami
Globe
Bixby
Casino
San Carlos
San Carlos I.R.
Bylas
Calva
Geronimo
Fort Thomas
Thatcher
Safford
Solomon
Pima
Clifton
South Side
Duncan
Fox
Greenlee
Vanar
Bowie
Willcox
Steins
Summit
Lordsburg
Benson
Tucson
Oro Valley
Oracle
San Manuel
Mammoth
Kearny
Hayden
Winkelman
Kelvin
Florence
Coolidge
Casa Grande
Eloy
Maricopa

EXHIBIT 1B


Canada Region
HCRY Huron Central Railway
OGRY Chemins de fer Québec-Gatineau
SLQ Chemin de fer St-Laurent & Atlantique (Québec)
SLR St. Lawrence & Atlantic Railroad
WLRS Western Labrador Rail Services
New York/Ohio/ Pennsylvania Region
AOR Allegheny & Ohio River Railroad
BPRR Buffalo & Pittsburgh Railroad
CUOH Columbus & Ohio River Rail Road
MVRY Mahoning Valley Railway
OHCR Ohio Central Railroad
OSRR Ohio Southern Railroad
POHC Pittsburgh & Ohio Central Railroad
RSR Rochester & Southern Railroad
WTRM Warren & Trumbull Railroad
YARR Youngstown & Austintown Railroad
YB Youngstown Belt Railroad
Rail Link Region
ATW Atlantic & Western Railway
CWRY Commonwealth Railway
ETRY East Tennessee Railway
FCRD First Coast Railroad
GC Georgia Central Railway
MMID Maryland Midland Railway
RSOR Riceboro Southern Railway
YRC York Railway
Port Operations
Industrial Switching
Illinois Region
IMRR Illinois & Midland Railroad
TZPR Tazewell & Peoria Railroad
TR Tomahawk Railway
Rocky Mountain Region
UTAH Utah Railway Company
Contract Coal Loading
Oregon Region
PWWR Portland & Western Railroad
Southern Region
ALM Arkansas Louisiana & Mississippi Railroad
AN AN Railway
BAYL The Bay Line Railroad
CAGY Columbus & Greenville Railway
CCKY Chattooga & Chickamauga Railway
CHAT Chattahoochee Bay Railroad
CIRR Chattahoochee Industrial Railroad
FP Pordyce & Princeton Railroad
GSWR Georgia Southwestern Railroad
KWT Kentucky West Tennessee Railway
LDRR Louisiana & Delta Railroad
LRWN Little Rock & Western Railway
LXVR Luxapallila Valley Railroad
MNBR Meridian & Bigbee Railroad
VR Valdosta Railway
WKRL Western Kentucky Railway
Port Operations
Short Line Railroads
Dashed lines indicate trackage rights
Gray line indicates out of service
Wilmington, NC
Savannah, GA
Brunswick, GA
Fernandina, FL
Jacksonville, FL
St. Joe, FL
Panama City, FL
Baton Rouge, LA
Galveston, TX
Corpus Christi, TX

STOCK PURCHASE AGREEMENT

dated as of August 1, 2011

by and among

GENESEE & WYOMING INC.,

ARIZONA EASTERN RAILWAY COMPANY,

PERMIAN BASIN RAILWAYS, INC.

and

IOWA PACIFIC HOLDINGS, LLC
(solely for purposes of Sections 1.7, 5.4(b), 5.16, 5.17, 5.18, 5.21, 5.22 and 9.2 and Articles III, VIII, X and XI)

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STOCK PURCHASE AGREEMENT

This STOCK PURCHASE AGREEMENT, dated as of August 1, 2011 (this "Agreement"), is among (i) Genesee & Wyoming Inc., a Delaware corporation (the "Acquirer"), (ii) Arizona Eastern Railway Company, an Arizona corporation (the "Company"), (iii) Permian Basin Railways, Inc. (the "Selling Stockholder") and, (iv) solely for purposes of Sections 1.7, 5.4(b), 5.16, 5.17, 5.18, 5.21, 5.22 and 9.2 and Articles III, VIII, X and XIII, Iowa Pacific Holdings, LLC ("Iowa Pacific").

RECITALS

WHEREAS, the Company is engaged in the business of operating a short line railroad (the "Business");

WHEREAS, the Company has authorized capital stock consisting of 1,000,000 shares of common stock, without par value ("Company Stock");

WHEREAS, the Selling Stockholder owns beneficially, and of record, all of the issued and outstanding shares of Company Stock on the date hereof and on the Closing Date; and

WHEREAS, the Acquirer wishes to acquire from the Selling Stockholder, and the Selling Stockholder wishes to sell to the Acquirer, all of the issued and outstanding shares of Company Stock;

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, the parties hereto agree as follows:

ARTICLE I

THE STOCK PURCHASE

Section 1.1 Closing. Subject to and upon the terms and conditions set forth in this Agreement, the closing of the Stock Sale (the "Closing") will be held at the offices of Simpson Thacher & Bartlett LLP, 425 Lexington Avenue, New York, New York 10017, which the applicable parties may participate in electronically and/or telephonically, no later than the third business day after all the conditions set forth in Articles VI and VII have been satisfied or waived (other than those conditions that by their terms cannot be satisfied until the Closing, but subject to the satisfaction or waiver or such conditions), or such other date as may be mutually agreed upon among the parties hereto; provided, that the Closing shall occur no earlier than the final day of the calendar month in which the [redacted] is provided to the Acquirer by the Selling Stockholder unless otherwise agreed to by the Acquirer in its sole discretion (the date on which the Closing occurs being, the "Closing Date").

Section 1.2 Sale and Purchase of the Company Stock. Subject to the terms and conditions of this Agreement, at the Closing, the Selling Stockholder shall sell, transfer, convey and deliver, and the Acquirer shall purchase, all of the Selling Stockholder's right, title and interest in and to the Company Stock, free and clear of all Encumbrances (such transaction, the "Stock Sale").

Section 1.3 **Closing Deliverables**. At the Closing:

(a) The Selling Stockholder shall deliver, or cause to be delivered, to the Acquirer certificates representing the Company Stock, free and clear of all Encumbrances, duly endorsed in blank or accompanied by stock powers duly endorsed in favor of the Acquirer, and accompanied by all requisite stock transfer stamps. In the event any certificates representing Company Stock shall have been lost, stolen or destroyed, the Selling Stockholder shall provide an affidavit of that fact acceptable to the Selling Stockholder and the delivery of such other documents reasonably requested by the Acquirer.

(b) Each of the Acquirer and the Selling Stockholder shall execute and deliver, and cause the Escrow Agent to execute and deliver, the Escrow Agreement in the form attached as Exhibit A.

(c) The Acquirer shall deliver, or cause to be delivered, to the Selling Stockholder by wire transfer of immediately available funds to an account of the Selling Stockholder, which wire transfer instructions shall be designated in writing to the Acquirer at least two business days prior to the Closing, an amount in cash, without interest and less applicable withholding, equal to the Closing Amount. Subject to Section 1.3(e), each of the Acquirer and the Company shall be entitled to deduct and withhold from any amounts payable pursuant to this Agreement to the Selling Stockholder such amounts as the Acquirer or the Company reasonably determines that are required to be deducted or withheld therefrom under United States federal or state, local or foreign Law, and to the extent such Law requires such withheld amount to be paid over to a Governmental Entity, the party withholding such amounts shall promptly pay such amounts to such Governmental Entity. To the extent that such amounts are so deducted or withheld, such amounts shall be treated for all purposes under this Agreement as having been paid to the Person to whom such amounts would otherwise have been paid, provided that such amounts have been properly paid, or are otherwise treated as properly paid, to the appropriate Governmental Entity or such other Person as the parties hereto agree.

(d) The Acquirer shall deliver, or cause to be delivered, to the Escrow Agent the Escrow Amount payable by wire transfer in immediately available funds to the Escrow Agent for deposit into the Escrow Account pursuant to the terms of the Escrow Agreement.

(e) The Acquirer shall deliver, or cause to be delivered, to the Escrow Agent the Tax Escrow Amount payable by wire transfer in immediately available funds to the Escrow Agent for deposit into the Tax Escrow Account pursuant to the terms of the Escrow Agreement.

(f) The Company shall deliver to the Acquirer a duly executed and acknowledged certificate, in form and substance acceptable to the Acquirer and in compliance with the Code and Treasury Regulations promulgated thereunder, certifying such facts as to establish that the sale of the Company Stock and any other transactions contemplated hereby are exempt from withholding pursuant to section 1445 of the Code.

(g) Each of the Company, the Selling Stockholder and the Acquirer shall deliver all other instruments, agreements, certificates and documents required to be delivered or reasonably requested by such party on or prior to the Closing Date pursuant to this Agreement.

Section 1.4 Closing Date Estimated Adjustments. Not later than five (5) business days prior to the Closing Date and in no event more than ten (10) business days prior to the Closing Date, the Company shall deliver to the Acquirer a schedule (the "Estimated Closing Date Schedule") setting forth estimates of (a) Closing Date Debt (the "Estimated Closing Date Debt"), (b) Company Transaction Expenses (the "Estimated Company Transaction Expenses"), and (c) the Closing Date Net Working Capital (the "Estimated Closing Date Net Working Capital") showing all components (and the amounts thereof) necessary to compute the Estimated Closing Date Net Working Capital. For the avoidance of doubt, at the Closing, the Acquirer shall purchase the Company Stock free of any Indebtedness of the Company. The Estimated Closing Date Schedule will be prepared in good faith and in accordance with GAAP on a basis consistent with that employed in the preparation of the Financial Statements. The Estimated Closing Date Schedule shall be subject to the review and agreement of the Acquirer, and the Acquirer and the Company shall cooperate and negotiate in good faith to resolve any dispute regarding the Estimated Closing Date Schedule prior to the Closing. No dispute or failure by the Acquirer to dispute any matter in the Estimated Closing Date Schedule shall in any way effect or prejudice the Acquirer's right to raise any matter in the Closing Date Schedule. The Company shall make the work papers, back-up materials and books and records used in preparing the Estimated Closing Date Schedule reasonably available to the Acquirer and its representatives and advisors at reasonable times and upon reasonable notice following the delivery of the Estimated Closing Date Schedule by the Company to the Acquirer hereunder.

Section 1.5 Post-Closing Adjustments.

(a) Delivery of Closing Date Schedule. Within ninety (90) days following the Closing Date, the Acquirer shall prepare and deliver to the Selling Stockholder a schedule (the "Closing Date Schedule") setting forth, as of the close of business on the Closing Date without giving effect to the consummation of the transactions contemplated herein, the Closing Date Debt, the Company Transaction Expenses and the Closing Date Net Working Capital and showing all components (and the amounts thereof) necessary to compute the Closing Date Net Working Capital. The Closing Date Schedule will be prepared in good faith and in accordance with GAAP on a basis consistent with that employed in the preparation of the Financial Statements. The Selling Stockholder shall have the right to review the Closing Date Schedule for a period of thirty (30) days following the delivery of the Closing Date Schedule by the Acquirer (the "Review Period"). The Acquirer shall make the work papers, back-up materials and books and records used in preparing the Closing Date Schedule reasonably available to the Selling Stockholder and its accountants at reasonable times and upon reasonable notice following the delivery of the Closing Date Schedule by the Acquirer to the Selling Stockholder hereunder, which materials shall be subject to customary confidentiality agreements and access letters entered into by the Selling Stockholder prior to receiving access to such materials.

(b) Objections. The Selling Stockholder shall have the right to object to any item or computation appearing in the Closing Date Schedule by notifying the Acquirer in writing of such objections prior to the expiration of the Review Period. Any such notice shall be accompanied by appropriate information and documentation in reasonable detail supporting the Selling Stockholder's calculations. If the Selling Stockholder does not make any such objection prior to the expiration of the Review Period, the Closing Date Debt, the Company Transaction Expenses and the Closing Date Net Working Capital appearing in the Closing Date Schedule

(together with all components thereof, and the amounts of such components, necessary to compute the Closing Date Debt, the Company Transaction Expenses and the Closing Date Net Working Capital) shall be determinative for purposes of this Article I and shall be final and binding.

(c) Resolution of Disputes. If the Selling Stockholder duly objects to any item or computation appearing in the Closing Date Schedule prior to the expiration of the Review Period, the items and calculations on the Closing Date Schedule as to which no objection is made prior to such date shall be final and binding, and the Selling Stockholder and the Acquirer shall, during the fifteen (15) day period following the delivery of the Selling Stockholder's objection, attempt in good faith jointly to resolve the matters on the Closing Date Schedule to which the Selling Stockholder objected. In the event the Selling Stockholder and the Acquirer cannot resolve all of such matters by the end of such fifteen (15) day period, such parties shall engage KPMG LLP or such other nationally known third party accountant as the parties may mutually agree to use (the "Neutral Accountant") to resolve any items not resolved by the Selling Stockholder and the Acquirer. The parties shall require the Neutral Accountant, within thirty (30) days or as soon as possible thereafter, acting as an arbitrator, to resolve only the matters objected to by the Selling Stockholder and not resolved by the Selling Stockholder and the Acquirer with respect to the determination of the Closing Date Debt, the Company Transaction Expenses and the Closing Date Net Working Capital, and the resolution by the Neutral Accountant of such matters shall be within the range of the amounts claimed in respect of each such item by the Selling Stockholder and the Acquirer and shall consider only those items or amounts with respect to the Closing Date Debt, Company Transaction Expenses and Closing Date Net Working Capital as to which the Selling Stockholder has disagreed. All fees and expenses relating to the work, if any, to be performed by the Neutral Accountant shall be paid fifty percent (50%) by the Acquirer and fifty percent (50%) by the Company, with the Company's portion treated as a Company Transaction Expense for purposes of the calculation of the Final Closing Date Schedule. If either the Acquirer or the Selling Stockholder fails to submit a statement regarding any unresolved objected matters submitted to the Neutral Accountant within the time determined by the Neutral Accountant or otherwise fails to give the Neutral Accountant access as reasonably requested in accordance with this Section 1.5(c), then the Neutral Accountant shall render a decision based solely on the evidence timely submitted and the access afforded to the Neutral Accountant by the Acquirer or the Selling Stockholder. The Neutral Accountant will deliver to the Acquirer and the Selling Stockholder a written determination (such determination to include a work sheet setting forth all material calculations used in arriving at such determination and to be based solely on information provided to the Neutral Accountant by the Acquirer or the Selling Stockholder) of the unresolved objected matters submitted to the Neutral Accountant within thirty (30) days of receipt of such unresolved objected matters, which determination will be final, binding and conclusive and judgment may be entered on the award.

(d) Final Closing Date Schedule. The Closing Date Debt, Company Transaction Expenses and the Closing Date Net Working Capital finally determined pursuant to Sections 1.5(b) or 1.5(c) shall be determinative for purposes of this Article I and shall be final and binding. All components, and the amounts of such components, necessary to compute the final and binding Closing Date Debt, the Company Transaction Expenses and the Closing Date Net Working Capital and the amount of such Closing Date Debt, Company Transaction

Expenses and Closing Date Net Working Capital are referred to herein, collectively, as the "Final Closing Date Schedule."

Section 1.6 Subsequent Payments to the Selling Stockholder. Subject to Section 1.7, if the Final Aggregate Consideration is greater than the Estimated Aggregate Consideration, the amount of such difference shall be paid to the Selling Stockholder promptly following the final determination of the Final Closing Date Schedule.

Section 1.7 Subsequent Payments to the Acquirer. If the Final Aggregate Consideration is less than the Estimated Aggregate Consideration, the Selling Stockholder or Iowa Pacific shall pay to the Acquirer the amount of such difference, promptly following final determination of the Final Closing Date Schedule; provided, that at its option, the Acquirer may elect, in its sole and absolute discretion, in lieu of payment due under this Section 1.7 from the Selling Stockholder or Iowa Pacific, to take payment from the Escrow Funds subject to the distribution and dispute procedures of the Escrow Agreement.

Section 1.8 Assumed Liabilities. On the terms and subject to the conditions set forth in this Agreement, the Company shall continue to be responsible for, and shall satisfy, discharge or perform when due, only those liabilities explicitly set forth on Schedule 1.8 (collectively, the "Assumed Liabilities") and no others.

Section 1.9 Excluded Liabilities. Notwithstanding anything contained in this Agreement to the contrary, except those liabilities that are specifically included as Assumed Liabilities on Schedule 1.8, on the terms and subject to the conditions set forth in this Agreement, the Selling Stockholder hereby agrees, effective at the time of the Closing, to assume and satisfy, discharge or perform when due any liability of the Company or its businesses, operations or assets related to any period of time on or prior to the Closing, whether such liability accrues prior to, on or after the Closing, including any obligation or liability relating to (a) any Persons, properties, assets, rights, Contracts, approvals or immunities transferred from Central Car Repair, LLC to the Company prior to or in connection with the Closing, (b) any Shipping Credits (as defined in the KM Agreement) issued before, on or after the Closing Date or (c) any item listed on Schedule 2.8(a) (collectively, the "Excluded Liabilities"). The Excluded Liabilities shall not be liabilities of the Company at or after the Closing.

ARTICLE II

REPRESENTATIONS AND WARRANTIES OF THE COMPANY

The Company hereby represents and warrants to the Acquirer on the date hereof and the Closing Date as set forth below:

Section 2.1 Organization and Qualification. The Company is duly formed, validly existing and in good standing under the laws of the State of Arizona, has the requisite corporate power and authority to own, lease and operate its properties and to carry on its business as it is now being conducted. The Company is in good standing and duly qualified to do business in New Mexico and each other jurisdiction in which the transaction of its business makes such qualification necessary, except where the failure to be so qualified in each such other jurisdiction

does not, and could not reasonably be expected to, interfere in any material respect with the operation of the Company's Business as currently conducted. True and complete copies of the Company's certificate of incorporation and by-laws (collectively, the "Company's Organizational Documents"), each as amended to date and currently in full force and effect, have been made available to the Acquirer, and no other organizational or governing documents are applicable to, or binding on, the Company.

Section 2.2 Capitalization; Subsidiaries.

(a) The authorized capital stock of the Company consists solely of 1,000,000 shares of Company Stock, all of which are designated as common stock. As of the date of this Agreement and as of the Closing, 100 shares of Company Stock are issued and outstanding. All outstanding shares of Company Stock are duly authorized, validly issued, fully paid and non-assessable and are not subject to any preemptive rights or Encumbrances. The Company does not have any shares of capital stock or voting securities reserved for issuance and there are no outstanding subscriptions, options, warrants, calls, rights, commitments or any other agreements (including under any employment agreements) to which the Company is a party or by which the Company is bound which obligate the Company to (i) issue, deliver or sell or cause to be issued, delivered or sold any additional shares of Company Stock or any other ownership interest of the Company or any other securities convertible into, or exercisable or exchangeable for, or evidencing the right to subscribe for, any such shares of Company Stock or any other ownership interest of the Company or (ii) purchase, redeem or otherwise acquire any shares of Company Stock or any other ownership interest of the Company. There are no voting trusts, stockholder agreements, registration rights agreements, proxies or other agreements or understandings in effect with respect to the voting, registration or transfer of any of the Company Stock.

(b) The Selling Stockholder owns, beneficially and of record, 100% of the issued and outstanding shares of the Company Stock.

[redacted]On or prior to the date hereof the Company does not have, and upon the consummation of the Closing, the Company will not have, any Subsidiaries nor will it own, directly or indirectly, any capital stock or other proprietary interest, and does not have any option or similar right to acquire any equity or other proprietary interest, in any Person. The Company is not subject to any obligation or requirement to provide funds to, or make any investment (in the form of a loan, capital contribution or otherwise) in, any Person, other than pursuant to the [redacted]

Section 2.3 Authorization and Validity of Agreement. The Company has all requisite power and authority to execute and deliver this Agreement and to perform all of its agreements hereunder, and to consummate the Transactions in accordance with the terms hereof. The Company has duly authorized the execution, delivery and performance of this Agreement and no other proceedings on the part of the board of directors of the Company are necessary to authorize this Agreement or the consummation of the Transactions. This Agreement has been duly and validly executed and delivered by the Company and constitutes the legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, except as may be limited by any bankruptcy, insolvency, reorganization, moratorium,

fraudulent conveyance or other similar laws affecting the enforcement of creditors' rights generally or by general principles of equity.

Section 2.4 Consents and Approvals. Neither the execution and delivery of this Agreement by the Company nor the consummation by the Company of the Transactions will require on the part of the Company any offer to purchase, consent, approval, authorization or permit of, or filing with, or notification to, any Governmental Entity or other Person, except for (i) the filing of any required applications or notices with the Governmental Entities set forth on Schedule 2.4(i), including the filing for STB's exemption approval of the control by the Acquirer of the Company and the filing of any documentation to transfer any licenses issued by the Federal Communications Commission, (ii) the third party consents and notices set forth on Schedule 2.4(ii) (the "Third Party Consents") and (iii) such other consents, approvals, filings and registrations the failure to obtain which could not, individually or in the aggregate, reasonably be expected to interfere in any material respect with the operation of the Company's Business as currently conducted or the consummation of the Transactions or adversely impact in any material respect the value of the Company's Business as currently conducted. The Company has no reason to believe that any of the foregoing filings, registrations, approvals or consents required to consummate the Transactions (the "Requisite Approvals") will not be obtained on a timely basis.

Section 2.5 No Violations. Except as set forth in Schedule 2.5, neither the execution, delivery or performance of this Agreement by the Company and its compliance with the terms hereof nor the consummation by the Company of the Transactions will (i) conflict with or violate the Company's Organizational Documents, (ii) result in a violation or breach of, constitute a default (with or without due notice or lapse of time, or both) under or require any consent under, give rise to any right of termination, cancellation, vesting, acceleration or modification of any right or obligations or loss of any benefit under, or result in the imposition of any Encumbrance, Contract or other obligation to which the Company is a party or by which the Company or any assets or properties of the Company are bound, except for such violations, breaches and defaults (or rights of termination, cancellation, vesting, acceleration, modification or Encumbrance) as to which requisite waivers or consents identified in Section 2.4 have been obtained or (iii) assuming the consents, approvals, authorizations or permits and filings or notifications referred to in Section 2.4 are duly and timely obtained or made, violate any Law applicable to the Company or any of its assets and properties, except in the case of each of clauses (ii) and (iii) above to the extent any such breach, violation, creation of Encumbrance, acceleration, vesting or modification does not, and could not reasonably be expected to interfere in any material respect with the operation of the Company's Business as currently conducted or the consummation of the Transactions or adversely impact in any material respect the value of the Company's Business as currently conducted.

Section 2.6 Financial Statements; Undisclosed Liabilities; Indebtedness; Credit Support Arrangements; Internal Controls and Procedures.

(a) True and complete copies of the Financial Statements have been previously made available to the Acquirer. Except as provided otherwise in Schedule 2.6(a), each of the statements of income included in the Financial Statements (including any related notes and schedules thereto) fairly presents, in all material respects, the results of operations of the Company for the periods set forth therein, in each case in accordance with the books and

records of the Company and GAAP applied on a consistent basis throughout the periods covered thereby (except that such Financial Statements do not contain all of the footnotes required under GAAP).

(b) Except for those liabilities listed on Schedule 2.6(b), the Company has no liabilities or obligations of any kind, whether absolute, accrued, contingent or otherwise (including any liabilities or obligations of any kind (including any continuing indemnification obligations or guarantees) relating to the Company's ownership or disposition of the stock and/or assets of any Affiliate prior to the date hereof).

(c) The Company does not have, and is not subject to, any "Off-Balance Sheet Arrangement" (as defined in Item 303(a)(4)(ii) of Regulation S-K promulgated under the Securities Act).

(d) Except for Indebtedness set forth on Schedule 2.6(d), the Company currently has no Indebtedness outstanding. The Company or any Affiliate of the Company is not in default with respect to any outstanding Indebtedness to which the Company is a party or any instrument relating thereto. Complete and correct copies of all instruments and agreements (including all amendments, supplements, waivers and consents) relating to any Indebtedness to which the Company is a party or its business, assets or properties are subject have been furnished or made available to the Acquirer.

(e) Except as set forth on Schedule 2.6(e), there are no Credit Support Arrangements outstanding with respect to the Company or any of its rights, assets or businesses.

(f) The financial books and records of the Company are complete and correct in all material respects, have been maintained in accordance with good business practice, and reflect the basis for the financial position and results of operations of the Company set forth in the Financial Statements.

(g) The Company maintains a system of internal accounting controls sufficient to provide reasonable assurance that (i) transactions are executed in accordance with management's general or specific authorizations, (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain asset accountability, (iii) access to assets is permitted only in accordance with management's general or specific authorization, and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences. The Company has made available to the Acquirer complete and correct copies of, all written descriptions of, and all policies, manuals and other documents promulgating, such internal accounting controls.

Section 2.7 Compliance with Law.

(a) Except as set forth in Schedule 2.7(a),

(i) the Company is conducting, and has conducted (but only to Company's Knowledge for the period preceding Selling Stockholder's acquisition

of Company), its businesses in compliance, in all material respects, with all Laws applicable to the Company and its properties;

(ii) the Company holds, owns or possesses, and has been in compliance (but only to Company's Knowledge for the period preceding Selling Stockholder's acquisition of Company) in all material respects with, all permits, licenses, variances, certifications, exemptions, authorizations, orders and approvals ("Permits") necessary to own, lease or operate its properties and to permit the continued lawful conduct of its businesses as now being conducted; and

(iii) the Transactions will not result in the cancellation, modification, termination or suspension of any Permit, except for any such cancellations, modifications, terminations or suspensions which, individually or in the aggregate, are not material to the Company.

(b) Schedule 2.7(b) lists:

(i) all citations, notices of violations or notices of investigation resulting in any material liability (or alleging any material liability if no final determination of liability has been made) to or involving the business or operations of the Company since January 1, 2007;

(ii) all Orders and administrative or judicial enforcement proceedings from any Governmental Entity received by the Company or its Affiliates since January 1, 2007 involving the business or operations of the Company;

(iii) the results of each federal or state health or safety inspection since January 1, 2007 relating to the business or operations of the Company, including any responses thereto filed by the Company or its Affiliates;

(iv) a summary of each audit (including any audits by any insurance company or carrier) relating to the safety of the Company's operations (including any action plans prepared in response thereto) which has been prepared since January 1, 2007; and

(v) all slow orders currently in effect applicable to any Railroad Assets operated by the Company.

(c) Neither the Company nor the conduct of any of its businesses is in conflict with, or in default or violation of, any applicable Laws, Permits or arbitration awards applicable to the Company or by which the Company or its properties are bound or affected, except for any such conflicts, defaults or violations which could not, individually or in the aggregate, reasonably be expected to interfere in any material respect with the operation of the Company's Business as currently conducted or the consummation of the Transactions or adversely impact in any material respect the value of the Company's Business as currently conducted.

Section 2.8 Litigation, Accidents and Incidents.

(a) Except as disclosed in Schedule 2.8(a), there are no claims, actions, arbitrations, judgments, decisions, settlements, writs, stipulations, decrees, lawsuits, claims of liability, complaints, injunctions, orders, proceedings or governmental investigations ("Actions") pending or, to the Knowledge of the Company, threatened against or affecting the Company or its businesses, operations or assets.

(b) Schedule 2.8(b) lists all accidents or incidents occurring subsequent to January 1, 2007 that have or reasonably could result in an Action against the Company, including any Federal Railroad Administration reportable injuries or derailments or damage to property.

(c) The Company is not subject to any outstanding and unsatisfied Orders. The Company has not received any written notice from any Governmental Entity of any pending or threatened Action by any Governmental Entity relating to the Company.

Section 2.9 Employees and Employee Benefit Matters.

(a) Schedule 2.9(a)(i) sets forth a correct and complete list of all of the employees of the Company as of the date hereof. Schedule 2.9(a)(ii) sets forth a correct and complete list of employees to be transferred from Affiliates of Iowa Pacific to the Company prior to the Closing Date.

(b) Except as set forth in Schedule 2.9(b), the Company has no written or oral employment or severance agreements with any of its employees, other than oral employment agreements or written offer letters which are terminable at will.

(c) Except as set forth in Schedule 2.9(c), neither the execution and delivery of this Agreement nor the consummation of the Transactions (either alone or in combination with another event) will: (i) result in any payment (including severance payments) becoming due, or increase the amount of any compensation due, to any employee of the Company; (ii) increase any benefits otherwise payable under any Employee Benefit Plan; (iii) result in the acceleration of the time of payment or vesting of any such compensation or benefits; or (iv) result in the payment of any amount or the provision of any benefit that could, individually or in combination with any other such payment or benefit, constitute an "excess parachute payment," as defined in Section 280G(b)(1) of the Code.

(d) The Company has no plan, Contract or commitment, whether legally binding or not, to create or participate in any additional Employee Benefit Plan, policies or arrangements that are intended to cover employees of the Company or to modify any Employee Benefit Plan in a manner that could increase the benefits provided to any employees of the Company thereunder except for such increases that occur in the ordinary course of business consistent with past practice. Further, the execution and delivery of this Agreement will not limit or restrict the right of the Company to merge, amend or terminate any Employee Benefit Plan.

(e) All Employee Benefit Plans are listed in Schedule 2.9(e), and such listing separately identifies the Employee Benefit Plans that are Company Benefit Plans and Seller

Benefit Plans. With respect to each such Employee Benefit Plan, the Company has made available to the Acquirer current, accurate and complete copies of each of the following together with, when applicable, all amendments: (i) the plan document, or if the plan has not been reduced to writing, a written summary of its material terms, (ii) if the Employee Benefit Plan is subject to the disclosure requirement of Title I of ERISA, the summary plan description, (iii) if the Employee Benefit Plan is intended to be qualified under Section 401(a) of the Code, the most recent determination letter issued by the IRS, (iv) if the Employee Benefit Plan is subject to the requirement that a Form 5500 series annual report/return be filed, the most recently filed annual reports/returns and all exhibits attached thereto, (v) all related trust agreements, group annuity contracts and administrative service agreements and (vi) for each Employee Benefit Plan that is funded, the most recent financial statements and actuarial reports for such Employee Benefit Plan.

(f) The Employee Benefit Plans have been administered in all material respects in accordance with their terms and comply in all material respects with the requirements of ERISA and the Code. All contributions, premiums and expenses, if any, due under each Employee Benefit Plan have been timely made. Any Employee Benefit Plan intended to be qualified under Section 401(a) of the Code has been determined by the IRS to be so qualified or has been submitted to the IRS to obtain such a determination within the applicable remedial amendment period, as defined in Treas. Reg. § 1.401(b)-1. There are no pending, nor has the Company or its Affiliates received written notice of any threatened, claims against or involving any of the Employee Benefit Plans (other than claims for benefits in the ordinary course), and no Employee Benefit Plan is currently under governmental investigation or audit, and to the Knowledge of the Company, no such investigation or audit has been threatened. The Company (i) has not incurred and has no liability (contingent or otherwise) under Title IV of ERISA and (ii) has never maintained or contributed to any Employee Benefit Plan subject to Title IV of ERISA.

(g) Neither the Company nor, to the Knowledge of the Company, any other "disqualified person" or "party in interest" (as defined in Section 4975(e)(2) of the Code and Section 3(14) of ERISA, respectively) has engaged in any transactions in connection with any Employee Benefit Plan that would result in the imposition on the Company of a material penalty pursuant to Section 502 of ERISA, material damages pursuant to Section 409 of ERISA or a material tax pursuant to Section 4975 of the Code.

(h) Each Employee Benefit Plan that is subject to Section 409A of the Code has been maintained and administered in compliance with the applicable requirements of Section 409A of the Code and all applicable IRS and Treasury Department guidance issued thereunder. None of the transactions contemplated by this Agreement will constitute or result in a deferral of compensation subject to Section 409A of the Code.

(i) Except as disclosed in Schedule 2.9(i):

(i) the Company is not a party to, or bound by, any collective bargaining agreement, Contract or other agreement or understanding with a labor union or labor organization;

(ii) there are no unfair labor practice, labor arbitration or grievance proceedings pending or, to the Knowledge of the Company, threatened against the Company;

(iii) the Company is not delinquent in payments to any of its employees, for any wages, salaries, commissions, bonuses or other direct compensation for any services performed by the date hereof or amounts required to be reimbursed by them to the date hereof, including overtime pay or other amounts payable under federal or state wage-hour laws;

(iv) the Company is in compliance, in all material respects, with all applicable federal, state and local Laws, rules and regulations respecting employment, employment practices, labor, terms and conditions of employment, termination of employment, benefits, wages and hours, including the Worker Adjustment and Retraining Notification Act and those of the United States Railroad Retirement Board;

(v) each person who performs services for the Company has been, and is, properly classified as an employee or independent contractor under applicable Law;

(vi) no action, complaint, charge, inquiry, proceedings or investigation by or on behalf of any employee, prospective employee, former employee, labor organization or other representative of the employees of the Company is pending or, to the Knowledge of the Company, threatened;

(vii) the Company has not closed any plant or facility, effectuated any layoffs of employees or implemented any early retirement, separation or window program since January 1, 2007, nor has any such action or program been planned or announced for the future;

(viii) the Company is not a party to, or otherwise bound by, any consent decree with, or citation by, any Governmental Entities relating to employees or employment practices;

(ix) to the Knowledge of the Company, no labor union or labor organization is presently seeking, is threatening to seek, or has sought since January 1, 2007, to represent or organize any of the Company's employees; and

(x) the Company has not experienced any labor strike, dispute, lockout, slowdown, stoppage or other labor dispute since January 1, 2007, and, to the Knowledge of the Company, none are threatened.

(j) There are no Employee Benefit Plans that provide health, life insurance or other welfare benefits to retired or other terminated employees of the Company, other than continuation coverage required by COBRA.

Section 2.10 Taxes.

(a) Except as set forth in Schedule 2.10:

(i) all Tax Returns required to be filed by or on behalf of the Company have been timely filed (taking into account any extension of time to file), all such Tax Returns are true, complete and correct, all Taxes required to be paid by or on behalf of the Company, or with respect to any of its properties (whether or not shown on a Tax Return) have been timely paid in full and adequate reserves in accordance with GAAP are provided for on the Financial Statements for any Taxes not yet due and payable;

(ii) there are no proposed deficiencies or other claims for unpaid Taxes proposed, threatened or asserted against the Company;

(iii) all Taxes that the Company is required to withhold or collect (including Taxes relating to compensation or benefits provided to employees, including pursuant to the United States Railroad Retirement Board) have been duly withheld or collected and have been timely and properly paid over, as required, to the appropriate taxing authority;

(iv) there are no audits or proceedings in progress, nor to the Knowledge of the Company, pending with respect to Taxes of the Company;

(v) no waivers of statutes of limitations have been given with respect to any Taxes with respect to the Company, which waivers are in effect as of the date hereof;

(vi) the Company has delivered or made available to the Acquirer true and complete copies of (i) all Tax Returns of the Company since January 1, 2007 and (ii) all private letter rulings, revenue agent reports, closing agreements, settlement agreements, deficiency notices and any similar documents submitted by, received by or agreed to by or on behalf of the Company and related to Taxes since January 1, 2007;

(vii) no claim has been made by a taxing authority in a jurisdiction where the Company does not file Tax Returns that the Company is or may be subject to Tax in such jurisdiction;

(viii) other than (i) a group where the common parent is Iowa Pacific or its subsidiaries, and (ii) a group where the common parent is RailAmerica, Inc., or one of its Affiliates, the Company is not, nor, to Company's Knowledge, has ever been (nor to Company's Knowledge does the Company have any liability for unpaid Taxes because it once was) a member of an affiliated, consolidated, combined, unitary or similar group. The Company is not a party to, or bound by, or has any obligation under, any Tax allocation Tax indemnity or Tax sharing agreement or is liable for the Taxes of any other Person under U.S. Treasury

Regulations §1.1502-6 (or any similar provision of state, local or foreign Law), as transferee or successor, by contract or otherwise;

(ix) the Company will not be required to include any item of income in, or exclude any item of deduction from, taxable income for any taxable period or portion thereof ending after the Closing Date as a result of (i) any change in the method of accounting for a taxable period or portion thereof ending on or prior to the Closing Date, (ii) any intercompany transaction (including any intercompany transaction subject to Sections 367 or 482 of the Code) entered into on or prior to the Closing Date or any excess loss account described in Treasury Regulations under Section 1502 of the Code (or any corresponding or similar provision of state, local or foreign Tax law), (iii) any prepaid amount received on or prior to the Closing Date or (iv) any installment sale or open transaction disposition made on or prior to the Closing Date or for any other reason;

(x) the Company has collected and/or paid substantially all privilege, gross receipts, property, excise, sales, value-added and use Taxes required to be collected and has remitted and/or paid on a timely basis such amounts to the appropriate taxing authorities (or have been furnished properly completed exemption certificates);

(xi) no closing agreement pursuant to Section 7121 of the Code (or any similar provision of state, local or foreign Law) has been entered into by or with respect to the Company;

(xii) no power of attorney has been executed with respect to any matter relating to Taxes of the Company that is currently in force;

(xiii) the Company has not been a party to any distribution in which the parties to such distribution treated the distribution as one to which Sections 355 or 361 of the Code is applicable;

(xiv) the Company has not entered into any transactions that are or would be part of any "reportable transaction" under Sections 6011, 6111 or 6112 of the Code (or any similar provision under any state, local or foreign Law);

(xv) the Company has not been a "United States real property holding corporation" (within the meaning of Section 897(c)(2) of the Code) during the applicable period specified in Section 897(c)(1)(A)(ii) of the Code; and

(xvi) there are no Encumbrances for Taxes upon any of the assets or properties of the Company, other than with respect to Taxes not yet due and payable.

Section 2.11 Material Contracts.

(a) Schedule 2.11(a) sets forth a list of all Contracts to which the Company is a party, relate to the business of the Company, or by which it or its assets or rights are otherwise

bound (whether written or oral) that are material to the Company, including the following (collectively, the "Material Contracts"):

(i) any Contract or purchase order (other than Equipment and Machinery Leases) to sell or lease equipment or provide services to any customer that (i) provides for scheduled, fixed or guaranteed annual payments, or is reasonably expected to result in payments from or to the Company, in excess of [redacted] in the aggregate or (ii) has a term longer than one (1) year;

(ii) any Contract or agreement with any director, officer or Affiliate of the Company, or any entity in which any such director, officer or Affiliate has a [redacted] percent [redacted] or more direct or indirect interest;

(iii) any Contract providing for stock awards or other equity-based compensation awards, bonuses, pensions, deferred or incentive compensation, retirement or severance payments, profit-sharing, insurance or other benefit plans or programs for any present or former officer, consultant, director or employee of the Company;

(iv) any collective bargaining agreements or other agreements with any labor union;

(v) any Contract (including any lease for Equipment and Machinery) for the lease or sublease as lessee, lessor, sublessee or sublessor of Real Property or Personal Property of the Company, or any Contract concerning computer software or other Company IP, requiring scheduled, fixed or guaranteed annual payments, or reasonably expected to result in payments from or to the Company, in excess of [redacted] in the aggregate or that is otherwise material to the Company;

(vi) except for purchase orders issued in the ordinary course of business consistent with past practice and except for contracts or commitments for or relating to the purchase of inventory or supplies in the ordinary course of business consistent with past practice, any Contract requiring payments in excess of [redacted] in the aggregate for the purchase or sale of any Personal Property;

(vii) any Contract that limits or purports to limit the ability of the Company to compete in any line of business or with any Person or in any geographic area or during any period of time or that limits or purports to limit any other Person's ability to compete with the Company, whether in any line of business or in any geographical area or during any period of time or otherwise;

(viii) any Contract concerning confidentiality, non-competition or non-solicitation of employees;

(ix) any Contract that includes a most favored nations clause or similar provision;

(x) any Contract for Indebtedness or the guaranty, indemnity or suretyship of Indebtedness of any Person;

(xi) any Contract that relates to the maintenance of railroad property pursuant to which the Company pays in excess of [redacted] in any twelve month period;

(xii) any Contract that relates to railroad tariffs that (i) provides for scheduled, fixed or guaranteed annual payments, or is reasonably expected to result in payments to the Company in fiscal year 2011, in excess of [redacted] in the aggregate or (ii) involves in excess of [redacted] carloads in any one-year period;

(xiii) any Contract for the acquisition of any Person or any business unit, other than Contracts in which the applicable acquisition has been consummated and there are no obligations ongoing;

(xiv) any other Contract (or group of related Contracts) the performance of which involves consideration in excess of [redacted] or which is otherwise material to the Business; and

(xv) any license agreement for the use of any third party Intellectual Property, excluding license agreements for commercially available, off-the-shelf software.

(b) The Company has delivered or made available to the Acquirer a correct and complete copy of each written Material Contract or a summary of each non-written Material Contract. Except as set forth on Schedule 2.5 and Schedule 2.11(b) hereof, to Company's Knowledge each Material Contract is legal, valid, binding, enforceable, and in full force and effect and will continue to be legal, valid, binding, enforceable, and in full force and effect without any modification that would interfere in any material respect with the conduct of the Company's Business as currently conducted immediately following the consummation of and after giving effect to the Transactions. Except as set forth on Schedule 2.5 and Schedule 2.11(b) hereof, neither the Company nor, to the Knowledge of the Company, any other party to any Material Contract to which the Company is a party, is in breach or default in any material respect in complying with any provisions thereof and no event has occurred which with or without notice or lapse of time, or both, would constitute a breach or default that would interfere in any material respect with the conduct of the business as currently conducted, or permit termination, modification, or acceleration under any Material Contract. Except as set forth on Schedule 2.11(b), the Company has not received any written notice of the intention of any party to terminate any Material Contract, whether as a termination for convenience or for default of the Company thereunder. Except as set forth on Schedule 2.11(b), the Company and/or its Affiliates have satisfied all amounts due under any Material Contract.

Section 2.12 Operational Matters.

(a) Schedule 2.12(a) lists all [redacted] during the immediately preceding [redacted] period.

(b) Schedule 2.12(b) lists, by dollar volume paid for calendar year 2010, the top ten (10) customers of the Company. The relationships of the Company with such customers are good commercial working relationships and, except as set forth in Schedule 2.12(b), (i) since December 31, 2008, no such customer has threatened in writing or, to Company's Knowledge, orally to cancel or otherwise terminate the relationship of such customer with the Company, (ii) no such customer has since December 31, 2010 decreased materially or threatened in writing or, to Company's Knowledge, orally to decrease or limit materially, or to the Knowledge of the Company intends to modify materially its relationship with the Company or intends to decrease or limit materially its usage or purchase of the services of the Company, or (iii) to the Knowledge of the Company, the Transactions will not materially adversely affect the relationship of the Company with any customer listed on Schedule 2.12(b).

(c) Schedule 2.12(c) lists, by dollar volume paid for calendar year 2010, the top ten (10) suppliers and vendors of the Company. The relationships of the Company with such suppliers are good commercial working relationships and, except as set forth in Schedule 2.12(c), (i) since December 31, 2008, no such supplier has threatened in writing or, to Company's Knowledge, orally to cancel or otherwise terminate the relationship of such supplier with the Company, (ii) no such supplier has since December 31, 2010 decreased materially or threatened in writing or, to Company's Knowledge, orally to decrease or limit materially, or to the Knowledge of the Company intends to modify materially its relationship with the Company, or (iii) to the Knowledge of the Company, the Transactions will not materially adversely affect the relationship of the Company with any supplier listed on Schedule 2.12(c).

(d) The Company is not a party to any Contract that would require it to, nor is the Company otherwise obligated to, continue the operation of the [redacted] or any [redacted] service. The Company may, at any time, discontinue its operation of the [redacted] or any [redacted] without any loss of rights or penalty, including the payment of any fees, expenses or reimbursements.

(e) The Company has provided the Acquirer with all bridge inspection reports regarding the property and assets used by the Company in the operation of its business of the Company, which includes the Osmose bridge inspection report and those bridge inspection reports set forth on Schedule 2.12(e).

(f) Except as set forth on Schedule 2.12(f), neither the Company nor any of its Affiliates have issued any [redacted] pursuant to the [redacted] Agreement.

Section 2.13 Brokers and Finders. In connection with the negotiation of this Agreement or the consummation of the Transactions, no broker, finder, agent, investment bank or other intermediary has acted directly or indirectly for the Company, and the Company has not incurred any obligation to pay any brokerage, finder's or other fee or commission to any Person.

Section 2.14 Absence of Certain Changes.

(a) Since December 31, 2010, no event, change or circumstance has occurred, which, individually or in the aggregate, has had, or could be reasonably expected to have a Material Adverse Effect on the Company.

(b) Since December 31, 2010, the Company has, in all material respects, operated and conducted its businesses and operations in the ordinary course of business consistent with past practice and, except as set forth in Schedule 2.14(b), there has not occurred any event that, if it had taken place following the execution of this Agreement, would not have been permitted by Section 5.1.

Section 2.15 Environmental Matters.

(a) Except as set forth on Schedule 2.15:

(i) the Company is in compliance in all material respects with all, and has not violated in any material respect any, Environmental Laws applicable to the Company or its businesses, operations or assets (but only to Company's Knowledge for the period preceding Selling Stockholder's acquisition of Company);

(ii) the Company has obtained and maintained all, and has not violated in any material respect the terms and conditions of any, material Environmental Permits required by Environmental Laws applicable to the Company or its businesses, operations or assets;

(iii) the Company has no Knowledge of any facts, events, circumstances or changes in legal requirements that would reasonably be expected to prevent the Company from (or materially increase the burden on the Company of) complying with Environmental Laws applicable to the Company or its businesses, operations or assets or obtaining, renewing or complying with all Environmental Permits required under such laws;

(iv) the Company has not received notice of any existing or pending Environmental Claim, and to the Knowledge of the Company, no Environmental Claim is threatened, and the Company has no Knowledge of any circumstances, conditions or events that could reasonably be expected to result in an Environmental Claim against or affecting the Company with respect to its businesses, operations or assets that could be material;

(v) there are and have been (but only to Company's Knowledge for the period preceding Selling Stockholder's acquisition of Company) no Materials of Environmental Concern, or other conditions, at, on, under or emanating from any property currently or, to the Knowledge of the Company, formerly owned, leased or operated by the Company, or at any other location (including any location used for the storage, disposal, recycling or other handling of any Materials of Environmental Concern), that could reasonably be expected to give rise to any

material liability of, result in material cost to, or otherwise adversely affect the Company;

(vi) the Company has not received any written request for information, or been notified that it is a potentially responsible party, under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 or any similar state Law with respect to any on-site or off-site location for which liability has not been finally resolved; and

(vii) the Company has not assumed or retained by contract or, to the Knowledge of the Company, by operation of law any obligation under any Environmental Law or concerning any Materials of Environmental Concern that could reasonably be expected to be material to the Company.

(b) The Company has delivered to the Acquirer copies of all Environmental Reports containing information that would reasonably be expected to be material that are in the possession or control of the Company.

Section 2.16 Transactions with Affiliated Persons. Schedule 2.16 sets forth a correct and complete list of (i) all transactions, Contracts, Indebtedness, loans, advances or other arrangements, or any related series thereof, between the Selling Stockholder or any Affiliate of the Selling Stockholder or their respective officers, directors or employees (collectively, the "Affiliated Persons"), on the one hand, and the Company, on the other hand and (ii) all assets, properties and services of the Affiliated Persons, used in connection with the Company's businesses at any time. Except as disclosed in Schedule 2.16, at or prior to the Closing, all such transactions, Contracts, Indebtedness, loans, advances and other arrangements shall be terminated without any liability or obligation of the Company unless otherwise consented to in writing by the Acquirer in its sole discretion. There is no Indebtedness owed to the Company by any employee, consultant, officer or director of the Company, other than salary advances and advances of travel expenses in the ordinary course of business consistent with past practice.

Section 2.17 Property.

(a) Schedule 2.17(a) sets forth a list of all material Leased Real Property used or occupied by the Company pursuant to written or verbal agreements (the "Real Property Leases"). Each of the Real Property Leases is in full force and effect, unimpaired by any acts or omissions of the Company. Each Real Property Lease constitutes the legal, valid and binding obligation of the Company that is party to the applicable Real Property Lease, enforceable against the Company in accordance with its terms except (i) as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws from time to time in effect affecting the enforcement of creditors' rights generally or by general principles of equity, and (ii) as the remedy of specific performance and injunctive and other forms of equitable relief may be subject to equitable defenses and to the discretion of the court before which any proceeding therefor may be brought. All rent and other sums and charges payable by the Company under each Real Property Lease are current. Neither the Company nor, to the Knowledge of the Company, any other party to any Real Property Lease, is in breach or default in any material respect in complying with any provisions thereof. No notice of default or termination under any

Real Property Lease has been received by the Company and no event has occurred which with or without notice or lapse of time, or both, would constitute a breach or default by the Company that would interfere in any material respect with the conduct of the Business of the Company as currently conducted, or permit termination, modification, or acceleration under any Real Property Lease.

(b) Schedule 2.17(b) sets forth a list of all material Owned Real Property. The Company has good and valid title to its respective Owned Real Property free and clear of all Encumbrances other than Permitted Encumbrances.

(c) The Company has sufficient property interests in its Real Property to operate its Business as it is currently operated.

[redacted]The Company has not entered into any Contract, commitment, lease or other agreement to sell, convey, assign or otherwise transfer any of the Real Property on which the Railroad Assets operated by the Company are located, other than pursuant to the [redacted]

(e) Schedule 2.17(e) sets forth a list of all material Personal Property owned by the Company, and the Company has good, valid and marketable title to all material Personal Property owned by it, free and clear of all Encumbrances other than Permitted Encumbrances. Except as provided otherwise in Schedule 2.17(e), all material Personal Property of the Company is in good working order, normal wear and tear excepted, in all material respects and is suitable for the purposes for which it is being used (taking into account ordinary wear and tear and the need for ordinary and routine maintenance and repairs).

[redacted]There are no Encumbrances on the Company Stock, the Personal Property of the Company, the Real Property of the Company or the Company IP pursuant to the [redacted]

(g) Except as set forth on Schedule 2.17(g), the physical condition of the Rail Facilities is sufficient, in all material respects, to operate the Business as currently operated.

(h) The Company owns (or in the case of leased or licensed assets or properties, has a valid right to use) all of the assets and properties of any kind or nature necessary to permit the Acquirer to operate the Business of the Company from and after the Closing Date in the same manner and to the same extent, in all material respects, as the Business is currently conducted by the Company.

Section 2.18 Insurance.

(a) Schedule 2.18(a) sets forth a true and complete list of all policies of property, casualty, liability and other insurance (other than any insurance policies relating to the Employee Benefit Plans) in effect during the period on or after January 1, 2007, including the applicable deductibles thereunder, insuring the properties, assets, employees, officers, directors, business and/or operations of the Company (collectively, the "Policies") and a claims history since January 1, 2007. Such Policies cover against the risks normally insured against by entities

in the same or similar lines of business as the Company in coverage amounts typically and reasonably carried by such entities.

(b) All Policies are valid and in full force and effect, no written notice of cancellation or termination has been received by the Company with respect to any such Policy, and coverage for the Company under the Policies will continue until the Closing, subject to the payment by the Company of the applicable premiums. All premiums due thereunder have been paid. The Company is not in default under any provisions of the Policies, and there is no claim by the Company pending under any of the Policies as to which coverage has been questioned, denied or disputed by the underwriters or issuers of such Policies.

Section 2.19 Bank Accounts. Schedule 2.19 lists all bank accounts currently used or held by the Company and the authorized signatories associated therewith.

Section 2.20 Intellectual Property. Schedule 2.20 contains a complete and accurate list of the Intellectual Property filed by, used or issued or registered to the Company in connection with its business. The Company owns, free and clear of all Encumbrances, all right, title and interest in and to, or has a sufficient and legally enforceable license or other right to use, any and all Intellectual Property used in the conduct of its business and operations as currently conducted or as currently proposed to be conducted (collectively, the "Company IP"). The Company takes and has taken reasonable and appropriate steps to protect and preserve the Company IP, including the confidentiality of any trade secrets or other confidential or proprietary information or materials that comprise any part of the Company IP. The conduct of the Company's businesses, and its use of the Company IP owned by the Company, does not infringe upon, misappropriate, conflict with or otherwise violate the rights of any other Person and, to the Knowledge of the Company, no other Person is infringing on, misappropriating or otherwise violating any of the Company's rights in any such Company IP. As of the date hereof, there is no suit, claim, action, investigation or proceeding made, pending, conducted, brought, or, to the Knowledge of the Company, threatened, by a Person alleging any such infringement, misappropriation, conflict or violation, by the Company. The Company is not subject to any Order that restricts or impairs the use of the Company IP. The Company has valid licenses providing for the necessary number of authorized users for all of the software forming part of the Company IP or off-the-shelf software used by the Company in the conduct of its business.

Section 2.21 Exclusive Dealing. The Company is not a party to [redacted] Agreement.

Section 2.22 Regulatory Matters.

(a) The Company has filed all regulatory reports, schedules, forms, statements, registrations and other documents, together with any amendments required to be made with respect thereto, that they were required to file since January 1, 2007 with (i) any domestic or foreign industry self-regulatory organization ("SRO") and (ii) any other federal, state or foreign governmental or regulatory agency or authority (collectively with all SROs, "Regulatory Agencies"), and has timely paid all Taxes, fees and assessments due and payable in connection therewith. Except as disclosed in Schedule 2.22 and for normal examinations

conducted by a Regulatory Agency in the regular course of business of the Company, no Regulatory Agency has initiated any proceeding or, to the Knowledge of the Company, investigation into the business or operations of the Company since [redacted]. There is no material unresolved violation, criticism or exception by any Regulatory Agency with respect to any report or statement relating to any examinations of the Company.

(b) The Company is not subject to any cease and desist or other order issued by, or is a party to any written agreement, consent agreement or memorandum of understanding with, or is party to any commitment letter or similar undertaking to, or is subject to any order or directive issued by, or is a recipient of any supervisory letter from or has adopted any resolution of its board of directors at the request of, any Regulatory Agency or other Governmental Entity that restricts the conduct of its business or that in any manner relates to its capital adequacy, its credit policies, its management or its business (each, whether or not set forth in the schedules to this Agreement, a "Company Regulatory Agreement"), nor has the Company been advised since January 1, 2007, by any Regulatory Agency or other Governmental Entity that it is considering issuing or requesting any such Company Regulatory Agreement.

Section 2.23 State Takeover Statutes. The Company has, or will have prior to the Closing, taken all necessary action so that no "business combination," "moratorium," "fair value," "control share acquisition" or other state antitakeover statute or regulation will be applicable to this Agreement or the Transactions by reason of the Company being a party to this Agreement, performing its obligations hereunder or consummating the Transactions.

Section 2.24 Rail Facilities and Related Contracts. The Company holds sufficient indefeasible property interests and indefeasible operating rights in and to the rail lines depicted on the maps referenced in Schedule 2.24, and to the adjacent yards, spur tracks and other rail facility appurtenances thereto (collectively, the "Rail Facilities") to permit the Company to conduct rail freight operations on and over the Rail Facilities as such operations are currently conducted by the Company. The individual parcels of land that constitute the Rail Facilities of each line are contiguous to each other, with no gaps or strips, from one end point of each line to the other end point of each such line. Furthermore, the Railroad Assets comprise the assets necessary, in all material respects, to operate the Businesses as currently operated and consistent with past practice. Neither the Company is a party to any Contract or subject to any Order that would deprive the Company of the ability to operates substantially as the Company operate over the Rail Facilities on the date of this Agreement, or that would deprive the Company of the ability to (i) serve directly all customers that may be currently served directly by Company or (ii) interchange with the carriers listed on Schedule 2.24 at or near the locations listed on Schedule 2.24.

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF THE SELLING STOCKHOLDER AND IOWA PACIFIC

The Selling Stockholder and Iowa Pacific represent and warrant to the Acquirer on the date hereof and the Closing Date as set forth below:

Section 3.1 **Organization and Qualification**. The Selling Stockholder is an entity duly organized, validly existing and in good standing under the laws of the State of Illinois. Iowa Pacific is an entity duly organized, validly existing and in good standing under the laws of the State of Illinois. Each of the Selling Stockholder and Iowa Pacific has all requisite corporate or other power and authority, or capacity, as the case may be, to own or lease and operate its properties and to carry on its business as now conducted.

Section 3.2 **Authorization and Validity of Agreement**. Each of the Selling Stockholder and Iowa Pacific has all requisite power and authority, or capacity, as the case may be, to execute and deliver this Agreement and to perform all of its agreements and obligations hereunder, and to consummate the Transactions. This Agreement has been duly authorized, executed and delivered by each of the Selling Stockholder and Iowa Pacific. This Agreement constitutes the legal, valid and binding obligation of each of the Selling Stockholder and Iowa Pacific, enforceable against the Selling Stockholder and Iowa Pacific in accordance with its terms, except as such validity, binding effect or enforceability may be limited by bankruptcy, insolvency and similar Laws affecting creditor's rights generally or equitable principles relating to the availability of remedies. No vote of the members of Iowa Pacific is required for the sale by the Selling Stockholder of the Company Stock.

Section 3.3 **No Violations**. Except as set forth in Schedule 3.3, the execution and delivery of this Agreement by each of the Selling Stockholder and Iowa Pacific, the performance and compliance by each of the Selling Stockholder and Iowa Pacific with the terms hereof, and the consummation of the Transactions will not conflict with, result in a breach or violation of, constitute a default (with or without due notice or lapse of time or both) under, or give rise to any Encumbrance on the Company Stock held by the Selling Stockholder under: (a) any provision of the charter or by-laws of the Selling Stockholder or the certificate of formation or limited liability company agreement of Iowa Pacific; (b) any Law applicable to the Selling Stockholder or Iowa Pacific, or the Selling Stockholder's or Iowa Pacific's respective properties or assets, including the Company Stock held by the Selling Stockholder; or (c) any Contract, commitment, lease, agreement, mortgage, note, bond, indenture or other instrument or obligation to which either the Selling Stockholder or Iowa Pacific is a party or by which it or its assets, including the Company Stock held by the Selling Stockholder, is bound.

Section 3.4 **Consents and Approvals**. Except as set forth in Schedule 2.5 and assuming the consents, approvals, authorizations or permits and filings or notifications referred to in Section 2.4 are duly and timely obtained or made, no consent, notice, approval, waiver, license or other authorization or action by or filing, registration or qualification with any Governmental Entity or any other Person (including any party to any agreement with the Selling Stockholder or Iowa Pacific) is required in connection with the execution and delivery by the Selling Stockholder or Iowa Pacific of this Agreement, the consummation by the Selling Stockholder or Iowa Pacific of the Transactions, or the performance by the Selling Stockholder or Iowa Pacific of its obligations hereunder.

Section 3.5 **Title to Company Stock**. All shares of capital stock of the Company are owned beneficially and of record as of the date hereof and as of the Closing Date by the Selling Stockholder and are free and clear of any Encumbrances.

Section 3.6 **Investment Decision**. The Selling Stockholder has relied upon, and is making its decision to sell its Company Stock solely upon, the Selling Stockholder's independent review and evaluation of this Agreement in consultation with the Selling Stockholder's financial, legal and tax advisors. The Selling Stockholder has sought and received such advice of financial, legal and tax advisors as it deemed appropriate prior to entering into this Agreement.

Section 3.7 **Brokers and Finders**. No agent, broker, Person, investment bank or firm is or will be entitled to any advisory, commission or broker's or finder's fee or commission in connection with any of the Transactions based on arrangements made by or on behalf of the Selling Stockholder or Iowa Pacific.

Section 3.8 **Litigation**. Except as set forth in Schedule 3.8 and except as would not, individually or in the aggregate, reasonably be expected to prevent or materially delay or impede the ability of the Selling Stockholder to consummate the Transactions, there are no (a) Orders against the Selling Stockholder or its Affiliates or (b) Actions pending or, to the knowledge of the Selling Stockholder, threatened in law or in equity, or before any Governmental Entity, against the Selling Stockholder or its Affiliates.

Section 3.9 **Exclusive Dealing**. Neither the Selling Stockholder nor Iowa Pacific is a party to any contract, commitment or other agreement relating to any [redacted].

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF THE ACQUIRER

The Acquirer represents and warrants to the Company and the Selling Stockholder on the date hereof and the Closing Date as set forth below:

Section 4.1 **Organization and Qualification**. The Acquirer is a Delaware corporation, validly existing and in good standing under the laws of the State of Delaware and has all requisite corporate or other power and authority to own or lease and operate its properties and to carry on its business as now conducted.

Section 4.2 **Authorization and Validity of Agreement**. The Acquirer has all requisite power and authority to execute and deliver this Agreement and to perform all of its agreements and obligations hereunder in accordance with its terms. This Agreement and the Transactions have been duly authorized by the board of directors of the Acquirer. This Agreement has been duly executed and delivered by the Acquirer. This Agreement constitutes the legal, valid and binding obligation of the Acquirer, enforceable against the Acquirer in accordance with its terms, except as such validity, binding effect or enforceability may be limited by bankruptcy, insolvency and similar laws affecting creditor's rights generally or equitable principles relating to the availability of remedies.

Section 4.3 **No Violations**. The execution and delivery of this Agreement, the performance and compliance by the Acquirer with the terms hereof and the consummation of the Transactions, and receipt of the consents and approvals referred to in Section 4.4, will not conflict with or result in any breach or violation of or default (with or without due notice or lapse of time or both) or creation of any Encumbrance under, or the acceleration, vesting or

modification of any right or obligation under (a) any provision of the charter or By-Laws of the Acquirer, (b) any Law applicable to the Acquirer or (c) any material contract, commitment, lease, agreement, mortgage, note, indenture or other instrument or obligation to which the Acquirer is a party or by which it or its assets are bound, in each case except to the extent any such breach, violation, creation of Encumbrance, acceleration, vesting or modification would not, individually or in the aggregate, reasonably be expected to prevent or materially delay or impede the ability the Acquirer to consummate the Transactions.

Section 4.4 **Consents and Approvals**. Except for (i) the filing of any required applications or notices with the Governmental Entities as set forth in Schedule 4.4 and approval of such applications and notices, including, without limitation, the STB's exemption approval of the control by the Acquirer of the Company, (ii) the filing with the U.S. Securities and Exchange Commission of such reports under the Exchange Act, as may be required in connection with the execution and delivery of this Agreement and (iii) such other consents, approvals, filings and registrations the failure to obtain which would not, individually or in the aggregate, reasonably be expected to prevent or materially delay or impede the ability of the Acquirer to consummate the Transactions, no consents or approvals of or filings or registrations with any Governmental Entity or with any third party, are necessary in connection with the execution and delivery by the Acquirer of this Agreement, and the consummation by the Acquirer of the Transactions.

Section 4.5 **Brokers and Finders**. No agent, broker, Person, investment bank or firm is or will be entitled to any advisory, commission or broker's or finder's fee or commission from the Company or any Selling Stockholder in connection with any of the Transactions based on arrangements made by or on behalf of the Acquirer.

Section 4.6 **Financial Ability**. The Acquirer has, and will have at the Closing, sufficient cash, available lines of credit under its existing credit facility or other sources of immediately available funds necessary to enable it to pay the Total Consideration as and when it becomes due.

ARTICLE V

CERTAIN OTHER COVENANTS OF THE PARTIES

Section 5.1 **Conduct of Business Prior to Closing**. During the period from the date of this Agreement to the Closing, except as expressly required or permitted by this Agreement, the Company shall (a) conduct its business in the usual, regular and ordinary course consistent with past practice and in compliance in all material respects with applicable Laws, (b) use commercially reasonable efforts to maintain and preserve intact its assets, business organization, employees and business relationships and goodwill with third parties and retain the services of its key officers and key employees and (c) take no action which would materially adversely affect or delay in any respect the ability of either the Acquirer or the Company to obtain any necessary approvals of any Regulatory Agency or other Governmental Entity or any Third Party Consent required for the Transactions or to perform its covenants and agreements under this Agreement. Except as set forth on Schedule 5.1, without the prior written consent of the Acquirer, between the date hereof and the Closing, the Company shall not take any of the following actions:

(i) make any material change in the conduct of the business of the Company or enter into any transaction other than in the ordinary course of business consistent with past practice;

(ii) (1) make any change in the Company's Organizational Documents; and (2) issue any additional equity interests or grant any option, warrant, other equity-based award or right to acquire any equity interests or issue any security convertible into or exchangeable for equity interests or alter in any way any of its outstanding equity interests or make any change in outstanding equity interests or the capitalization of the Company, whether by reason of a reclassification, recapitalization, stock split or combination, exchange or readjustment of shares, stock dividend or otherwise, or enter into any agreement or understanding with respect to the sale or voting of its capital stock;

(iii) make any sale, assignment, transfer, abandonment or other conveyance or disposition of the assets, properties or rights (including any Company IP) of the Company or any material part thereof;

(iv) subject any of the assets, properties or rights of the Company, or any part thereof, to any Encumbrance or suffer such to exist, other than (A) Permitted Encumbrances and (B) such Encumbrances as may arise in the ordinary course of business consistent with past practice by operation of applicable Law and that will not, individually or in the aggregate, be or reasonably be expected to be material to the Company;

(v) declare, set aside or pay any dividends or other distribution in respect of any equity interest of the Company (other than dividends and distributions of cash by the Company);

(vi) acquire any assets, raw materials or properties, other than in the ordinary course of business consistent with past practice;

(vii) acquire any voting or non-voting equity securities or similar ownership interests in any Person, whether by merger, consolidation, purchase or otherwise or through the formation of a Subsidiary of the Company;

(viii) (1) establish, adopt, enter into, amend or terminate any Employee Benefit Plan or any plan, agreement, program, policy, trust, fund or other arrangement that would be an Employee Benefit Plan if it were in existence as of the date of this Agreement, except to the extent that any such amendments are required by applicable Law, are necessary to preserve the tax-qualified status of any Employee Benefit Plan or do not result in an increase in benefits for the present or former directors, officers or employees of the Company; (2) grant any increase in the compensation or fringe benefits of any present or former directors, consultants, officers or employees of the Company (including any such increase pursuant to any bonus, pension, profit-sharing or other plan or commitment), except in accordance with preexisting contractual provisions and except with

respect to certain employees of the Company listed on Schedule 5.1(viii) [redacted]; (3) grant any severance or termination pay to any present or former director, officer or employee of the Company; and (4) loan or advance money or other property to any present or former directors, officers or employees of the Company (other than advances for expenses incurred in the ordinary course of business);

(ix) pay, lend or advance any amount to, or sell, transfer or lease any properties or assets to, or enter into any agreement or arrangement with, any Affiliates of the Company, other than payments consistent with past practice for services provided by Affiliates of the Company in the ordinary course of the Company's business, and not including the [redacted];

(x) make any investment, either by purchase of securities, contribution to capital, property transfer or purchase of any property or assets of any Person;

(xi) take any other action which the Company reasonably expects would cause any of the representations and warranties made by the Company in this Agreement not to remain true and correct in any material respect;

(xii) make any change in any method of accounting or accounting principle, method, estimate or practice or write down the value of any inventory or write off as uncollectible any accounts receivable or any portion thereof, except as required by GAAP;

(xiii) make, change or revoke any election or method of accounting with respect to Taxes affecting or relating to the Company, file any amended Tax Return, surrender any right to claim a Tax refund, enter into any closing or other agreement or settlement with respect to Taxes affecting or relating to the Company, agree to an extension of the statute of limitations with respect to the assessment or determination of any Taxes or take any other similar action with respect to Taxes, in each case, including with respect to the [redacted];

(xiv) enter into any plan of liquidation or dissolution or file a petition in bankruptcy under any provisions of federal or state bankruptcy law or consent to the filing of any bankruptcy petition against it under any similar applicable Law;

(xv) settle, compromise, release or forgive any Indebtedness, claim or litigation or waive or release any right thereto;

(xvi) make, enter into, modify, amend in any material respect, fail to renew, or terminate, any Contract or bid that, if in effect on the date hereof, would

be a Material Contract, or otherwise waive, release or assign any material rights, claims or benefits thereunder;

(xvii) amend, terminate or surrender any Lease, or fail to exercise any rights of renewal with respect to any material Lease;

(xviii) create, incur, issue, assume, guarantee or otherwise become liable for (whether directly, contingently or otherwise) any Indebtedness (including Credit Support Arrangements) or issue any instrument convertible, exercisable or exchangeable for Indebtedness, or enter into any "keep-well" or other agreement to maintain the financial condition of another Person, or any other arrangement having the economic effect of any of the foregoing;

(xix) make or commit to make any capital expenditure not consistent with the Company's capital expenditure budget, except for capital expenditures not to exceed [redacted] in the aggregate;

(xx) terminate any employees other than for cause or hire any additional employees, unless in the ordinary course consistent with past practice;

(xxi) grant, amend, modify, extend or terminate any trackage rights agreement, haulage agreement, power-run-through agreement, marketing agreement, joint facilities agreement or other agreement with carriers materially affecting the operations on, or marketing of traffic to, from or over, the Rail Facilities;

(xxii) abandon or discontinue service over all or any portion of the Rail Facilities, or commence a regulatory proceeding to facilitate any such abandonment or discontinuance;

(xxiii) enter into any new line of business or discontinue any material line of business;

(xxiv) enter into, materially amend or renew any agreement with a shipper or receiver for movement of traffic over the Rail Facilities;

(xxv) enter into any agreement with a shipper or receiver that would cause or facilitate the diversion of a material amount of traffic from the Rail Facilities; or

(xxvi) authorize or enter into, or cause or permit the Company to enter into, any agreement or commit to take any action prohibited by clauses (i) through (xxv).

The Company may take such actions as may be reasonably [redacted] violating clauses (vi), (x) (with respect to investments in properties or assets) and (xix) of this Section 5.1.

Section 5.2 Reasonable Best Efforts.

[redacted]Each of the Acquirer, the Selling Stockholder and the Company shall use their reasonable best efforts (i) to take, or cause to be taken, all actions necessary, proper or advisable to comply promptly with all legal requirements which may be imposed on such party with respect to the Transactions and, subject to the conditions set forth in Articles VI and VII hereof, to consummate the Transactions and (ii) to obtain (and to cooperate with the other party to obtain) any consent, authorization, Order or approval of, or any exemption by, any Governmental Entity, Regulatory Agency and any other third party which is required to be obtained by such party in connection with the Transactions. The Company agrees it shall use commercially reasonable efforts to obtain all material consents, approvals or waivers of, or provide required notices to, third parties required prior to or upon the consummation of the Stock Sale or as requested by the Acquirer. [redacted]

(b) The parties hereto shall cooperate with each other (except with respect to the STB, which is governed by Section 5.2(c)) and use their reasonable best efforts to promptly prepare and file all necessary documentation, to effect all applications, notices, petitions and filings, to identify and obtain as promptly as practicable all consents, approvals and authorizations of all Governmental Entities and any other third parties which are necessary or advisable to consummate the Transactions, and to comply fully with the terms and conditions of all such consents, approvals and authorizations of all such Governmental Entities. The Acquirer and the Company shall have the right to review in advance, and, to the extent practicable, each will consult with the other on, in each case subject to applicable Laws relating to the exchange of information, all the information relating to the Company, the Selling Stockholder or the Acquirer, as the case may be which appear in any filing made with, or written materials submitted to, any Governmental Entity or any other third party in connection with the Transactions. The parties hereto agree that they will reasonably consult with each other with respect to the obtaining of all Permits, consents, approvals and authorizations of all Governmental Entities, Regulatory Agencies and other third parties necessary or advisable to consummate the Transactions and each party will keep the other reasonably apprised of the status of matters relating to completion of the Transactions. Subject to consultations with the Company, the Acquirer shall have final authority over the development, presentation and conduct of any proceedings before such Governmental Entities, Regulatory Agencies and other third parties, including over decisions whether to agree to or acquiesce in any conditions or restrictions. None of the Company, the Selling Stockholder or any Affiliate thereof shall take any regulatory or legal action in connection with such Governmental Entities, Regulatory Agencies or other third parties without the Acquirer's prior written consent.

(c) The Acquirer, on the one hand, and the Company, on the other, shall (i) cooperate with one another to prepare and promptly present to the STB all filings and other

presentations in connection with seeking any STB approval, exemption or other authorization necessary to consummate the Transactions and (ii) use reasonable best efforts to prosecute such filings and other presentations and keep the other party apprised of the status of matters relating to the STB. Subject to consultations with the Company and, after giving good faith consideration to the views of the Company, the Acquirer shall have final authority over the development, presentation and conduct of all matters before the STB in connection with the Transactions, including over decisions as to whether to agree to or acquiesce in any conditions or restrictions. The Company shall take no regulatory or legal action in connection with the STB without the Acquirer's prior written consent.

(d) The Acquirer and the Company shall, upon reasonable request, furnish each other with all information concerning themselves, their Affiliates, directors, officers and stockholders and such other matters as may be reasonably necessary or advisable in connection with any statement, filing, notice or application made by or on behalf of the Acquirer, the Company or any of their respective Affiliates to any Governmental Entity in connection with the Transactions.

Section 5.3 Access to Information.

(a) Upon reasonable notice and subject to applicable Laws relating to the exchange of information, the Company shall afford to the officers, employees, accountants, counsel and other representatives ("Representatives") of the Acquirer, complete access, during normal business hours during the period prior to the Closing, to all its personnel, properties, books, contracts, commitments and records and, during such period, the Company shall make available to the Acquirer and such other Persons (i) a copy of each report, schedule, registration statement and other document filed or received by it during such period pursuant to the requirements of applicable Law (other than reports or documents which Company is not permitted to disclose under applicable Law) and (ii) all other information concerning its business, properties and personnel as the Acquirer may reasonably request, in all cases so that the Acquirer may have full opportunity to make such investigations as it desires of the affairs and assets of the Company. The Company shall not be required to provide access to or to disclose information where such access or disclosure would violate applicable Law.

[redacted]The Acquirer shall hold all information furnished by or on behalf of the Company or its Representatives pursuant to Section 5.3(a) in confidence [redacted]

Section 5.4 Additional Agreements.

(a) In case at any time either prior to or after the Closing any further action is necessary or desirable to carry out the purposes of this Agreement or any other transaction contemplated hereby or to vest the Company with full title to all properties, assets, rights, Contracts, approvals, immunities and franchises of any of the parties to the Transactions, the proper officers and directors of each party to this Agreement and their respective Subsidiaries shall take all such necessary action as may be reasonably requested by the Acquirer.

(b) Without limiting Section 5.4(a), on or prior to the Closing, Iowa Pacific and the Selling Stockholder agree to, and agree to cause their respective Affiliates to, transfer all of the properties, assets, rights, Contracts, approvals and immunities owned or held by such Persons used in connection with the operations and businesses of the Company, including the properties, assets, rights, Contracts, approvals and immunities listed on Schedule 5.4(b), pursuant to documentation mutually acceptable to the Company and the Acquirer. Without limiting the foregoing, Iowa Pacific and the Selling Stockholder agree to (i) [redacted] to transfer to the Company all of [redacted] interests in any properties, assets, rights, Contracts, approvals and immunities but only to the extent used in connection with the operations and businesses of the Company; provided that, for the avoidance of doubt, [redacted] The parties hereto shall cooperate with each other as may be reasonably necessary to effectuate the purposes of foregoing, including but not limited to, the execution of any necessary instruments or documents, the filing of any necessary notices and the granting of any necessary consents or waivers.

Section 5.5 **No Solicitation**. From and after the date hereof until the Closing Date or the termination of this Agreement in accordance with Article IX, the Company shall not (whether directly or indirectly through its Affiliates, Representatives or other intermediaries), nor shall the Company authorize or permit any of its or their officers, directors, employees or Representatives to, directly or indirectly, (i) [redacted]

[redacted]

Section 5.6 **Financial Statements**. As promptly as practicable and in any event no later than thirty (30) days after the end of each calendar month ending after the date hereof and before the Closing Date, the Company will deliver to the Acquirer true and complete copies of (i) the unaudited statements of income of the Company as of and for such calendar month and the portion of the fiscal year then ended which financial statements shall be prepared in accordance with GAAP and (ii) any reporting statements required to be provided pursuant to any Contracts with [redacted] to the extent such disclosure does not violate any applicable confidentiality obligation of Company; provided that the Company shall use reasonable best efforts to obtain any waivers or other consents of [redacted] in writing to share such information with the Acquirer promptly following the date hereof.

Section 5.7 **Resignation of Directors and Officers.** The Selling Stockholder agrees that it shall cause each director and officer of the Company, if requested by the Acquirer, to resign his or her positions with the Company effective on the Closing Date and shall execute such appropriate documentation with respect to the transfer or establishment of bank accounts, signing authority, and other similar matters, effective on the Closing Date, as the Acquirer reasonably requests.

Section 5.8 **Public Announcements**. Following the execution of this Agreement, the Company and the Acquirer shall mutually agree on the form and timing of an initial joint press release to be issued regarding this Agreement. The Acquirer and the Company shall consult with and obtain the approval of the other party before issuing any press release or other public announcement with respect to the Transactions and shall not issue any such press release prior to such consultation and approval, except as may be required by applicable Law, including the rules and regulations of any national securities exchange or national automated quotation system, in which case the party proposing to issue such press release or make such public announcement shall use its commercially reasonable efforts to consult in good faith with the other party before issuing any such press release or making any such public announcement.

Section 5.9 **Notification of Certain Matters**.

(a) The Company shall give prompt notice to the Acquirer, and the Acquirer shall give prompt notice to the Company, of the occurrence or non-occurrence of any event the occurrence or non-occurrence of which results in any representation or warranty contained in this Agreement being untrue or inaccurate in any material respect (or, in the case of any representation or warranty qualified by its terms by materiality, then untrue or inaccurate in any

respect) and any failure of the Company or the Acquirer, as the case may be, to comply with or satisfy in any material respect any covenant, condition or agreement to be complied with or satisfied by it hereunder; provided, however, that the delivery of any notice pursuant to this Section 5.9 shall not limit or otherwise affect the remedies available hereunder to the party receiving such notice. The Company shall promptly advise the Acquirer of any event, effect, change or development that could reasonably be expected to have a Material Adverse Effect on the Company.

(b) Each of the Company and the Acquirer shall give prompt notice to the other of (i) any notice or other communication from any Person alleging that the approval of such Person is or may be required in connection with this Agreement or the consummation of the Transactions, (ii) any notice or other communication from any Governmental Entity in connection with this Agreement or the consummation of the Transactions to the extent legally permitted, (iii) any Claim, relating to or involving or otherwise affecting such party that relates to this Agreement or the consummation of the Transactions or (iv) any fact, event, change, development, circumstance, condition or effect that is likely to delay or impede the ability of such party to consummate the Transactions or to fulfill their respective related obligations.

(c) The Company shall give prompt notice to the Acquirer of, to the Knowledge of the Company, the occurrence of a default or event that, with notice or lapse of time or both, would become a default under any Material Contract of the Company.

(d) Each party shall promptly advise the other parties hereto in writing of the occurrence of any Claim of any Person that, if adversely determined, would reasonably be expected to restrain, enjoin or otherwise prohibit the consummation of the Transactions and of any other matter or circumstance that would reasonably be expected to prevent or materially delay the consummation of the Transactions.

Section 5.10 Company Transaction Expenses. With respect to any Company Transaction Expenses which will remain unpaid on the Closing Date, at least two (2) business days prior to the Closing, the Company shall use its best efforts to submit to the Acquirer reasonably satisfactory documentation setting forth the amounts of all such unpaid Company Transaction Expenses, including the identity of each recipient, dollar amounts, wire instructions and any other information necessary to effect the final payment in full thereof. In connection with the Closing, the Selling Stockholder shall deliver, or cause to be delivered, from the applicable service providers, a certificate to the Acquirer (in a form reasonably acceptable to the Acquirer) confirming that, upon payment of the specified amounts, the Company will have no further obligations pursuant to the Company's arrangements with such service providers. The Selling Stockholder agrees it shall pay such specified amounts to such service providers prior to or in connection with the Closing.

Section 5.11 Delivery of Corporate Records. Prior to the Closing Date, the Company shall deliver to the Acquirer correct and complete copies of all minute books of all stockholders, board of directors and committee meetings, corporate seals, stock ledgers, true and complete copies of the Company's Organizational Documents, and other similar records and items reasonably requested by the Acquirer of the Company.

Section 5.12 Restrictions on Transfers of the Company Stock. The Selling Stockholder agrees that, so long as this Agreement is in effect, it shall not sell, transfer, pledge, hypothecate, encumber, assign or dispose of any Company Stock, other than with the Acquirer's prior written consent at its sole discretion.

Section 5.13 Stockholder Release. Effective as of and following the Closing, the Selling Stockholder hereby unconditionally and irrevocably and forever releases and discharges the Company, the Acquirer, their respective Affiliates, their respective successors and assigns, and any present or former directors, managers, officers, employees, advisors, agents or other representatives thereof (collectively, the "Released Parties"), of and from, and hereby unconditionally and irrevocably waives, any and all claims, debts, losses, expenses, proceedings, covenants, liabilities, suits, judgments, damages, actions and causes of action, obligations, accounts, and liabilities of any kind or character whatsoever, known or unknown, suspected or unsuspected, in contract, direct or indirect, at law or in equity that such party ever had, now has or ever may have or claim to have against any Released Party, for or by reason of any matter, circumstance, event, action, inaction, omission, cause or thing whatsoever arising prior to the Closing but only to the extent based upon or arising out of the Selling Stockholder's capacity as a holder of Company Stock; provided, however, that this release does not extend to claims or actions by the Selling Stockholder to enforce the terms or any breach of this Agreement or any of the provisions set forth herein, which the Selling Stockholder shall be free to pursue in accordance with the terms of this Agreement.

Section 5.14 Additional Actions. In case at any time after the Closing Date any further action is necessary or desirable to carry out the purposes of this Agreement, the proper officers and directors of each party to this Agreement shall take all such necessary action reasonably requested by any other party hereto.

Section 5.15 Tax Matters.

(a) The Selling Stockholder shall prepare or caused to be prepared, and timely file or cause to be filed (in a manner consistent with past practices) with the appropriate taxing authorities (i) all Tax Returns that are required to be filed by or with respect to the Company for any Tax period ending on or before the Closing Date on a stand-alone, consolidated, combined, affiliated or unitary basis with the Selling Stockholder, Iowa Pacific or any member thereof, and (ii) all Tax Returns that are required to be filed by or with respect to the Company that are due on or before the Closing Date. The Selling Stockholder shall deliver to the Acquirer a copy of each such Tax Return at least ten (10) days prior to any filing and shall consider all reasonable comments made by the Acquirer with respect thereto in good faith. The Selling Stockholder shall timely pay or cause to be paid to the appropriate taxing authorities any undisputed Taxes due in respect of Tax Returns described in this Section 5.15(a).

(b) From and after the Closing, the Company shall prepare or cause to be prepared, and timely file or cause to be filed with the appropriate taxing authorities all Tax Returns that are required to be filed by or with respect to the Company for any Tax period beginning before and ending after the Closing Date (a "Straddle Period"), other than the Tax Returns described in Section 5.15(a). The Company shall deliver to the Selling Stockholder a copy of each such Tax Return at least ten (10) days prior to any filing and shall consider all

reasonable comments made by the Selling Stockholder with respect thereto in good faith. With respect to Tax Returns described in this Section 5.15(b), at least ten (10) days prior to any filing thereof, the Selling Shareholder shall pay or cause to be paid to the Company the amount of any undisputed Taxes due in respect of any Straddle Period allocable to the period ending on the Closing Date pursuant to Section 5.15(c). The Acquirer shall be entitled to payment of such Taxes out of the Escrow Funds at its sole option or, solely with respect to payments relating to the [redacted], the [redacted] at its sole option, in each case subject to the distribution and dispute procedures set out in the Escrow Agreement.

(c) For purposes of this Agreement, in the case of any Straddle Period, the amount of Taxes allocable to the portion of the Straddle Period ending on the Closing Date shall be deemed (i) in the case of any Tax that is imposed on a periodic basis (such as real or personal property Taxes) to be (A) the amount of such Tax for the entire period (or, in the case of such Taxes determined on an arrears basis, the amount of such Taxes for the immediately preceding period) multiplied by (B) a fraction, the numerator of which is the number of calendar days in the Straddle Period ending on the Closing Date and the denominator of which is the number of calendar days in the entire relevant Straddle Period and (ii) in the case of any Tax not described in clause (i) above (such as franchise Taxes, Taxes that are based upon or measured by income, receipts or occupancy or imposed in connection with any sale or other transfer or assignment of property (whether real or personal, tangible or intangible)), to be the amount of any such Taxes that would be payable if the taxable year ended as of the close of business on the Closing Date.

(d) All transfer, documentary, sales, use, stamp, registration and other such Taxes, and all conveyance fees, recording charges and other fees and charges (including any penalties and interest) incurred in connection with the consummation of the Transactions shall be borne [redacted]. Selling Stockholder shall be exclusively responsible for the timely payment of any income Taxes imposed on it directly arising from the Elections pursuant to Section 5.15(e), and Acquirer shall be exclusively responsible for the timely payment of any income Taxes imposed on it directly arising from such Elections.

(e) The Acquirer and the Selling Stockholder shall join in timely making an election under Section 338(h)(10) of the Code (and any corresponding elections under state and local Tax Law) (the "Elections") with respect to the purchase and sale of the Company Stock pursuant to this Agreement. The Acquirer and the Selling Stockholder shall cooperate with each other to take all actions necessary and appropriate (including filing such additional forms, Tax Returns, elections, schedules and other documents) as may be required to effect and preserve timely Elections in accordance with Section 338(h)(10) of the Code and the Treasury Regulations (or any corresponding provisions of state or local Law).

(f) The Final Aggregate Consideration and the liabilities of the Company (plus other relevant items) shall be allocated among the assets of the Company for all purposes (including Tax and financial accounting purposes) in a manner consistent with Section 338 and Section 1060 of the Code and the Treasury Regulations. Within ninety (90) days of the determination of the Final Closing Date Schedule pursuant to Section 1.5(d), the Acquirer shall prepare a proposed allocation schedule in accordance with the preceding sentence (the "Allocations"), and shall deliver its calculation of the Allocations to the Selling Stockholder.

Within thirty (30) days after receipt of the Acquirer's calculation of the Allocations, the Selling Stockholder shall deliver a written response to the Acquirer setting forth whether the Selling Stockholder agrees with or disputes with the Acquirer's calculation (the "Written Response") and, if the Selling Stockholder disputes the Acquirer's calculation, the Written Response will set forth in reasonable detail the basis for each disputed item and will certify that all disputed items are being disputed in good faith. The Acquirer and the Selling Stockholder will attempt in good faith and in an expedient manner to reach agreement on any disputed items with respect to the Allocations, and if they cannot agree within thirty (30) days after delivery of the Written Response, each may submit the disputed items to an independent accounting firm mutually agreeable to the Acquirer and the Selling Stockholder (the "Arbitrator"). The Acquirer and the Selling Stockholder shall cooperate to obtain the decision of the Arbitrator within twenty (20) days after referral of the items in dispute to the Arbitrator or as soon thereafter as reasonably practicable. The decision of the Arbitrator will be final and binding. The fees and expenses of the Arbitrator will be borne [redacted].

(g) Iowa Pacific, the Selling Stockholder, the Acquirer, the Company and their respective Affiliates, as applicable, shall (i) be bound by the Allocations (whether the Allocations are as a result of agreement between the Selling Stockholder and the Acquirer with respect to the Acquirer's calculation or as a result of the decision of the Arbitrator) for purposes of determining any Taxes, (ii) prepare and file their Tax Returns and related Tax documents on a basis consistent with the Allocations, and (iii) take no position inconsistent with the Allocations on any applicable Tax Return, in any proceeding before any Governmental Entity, or otherwise. If any Governmental Entity or taxing authority disputes any portion of the Allocations, the party to this Agreement receiving notice of the dispute will promptly notify the other parties concerning resolution of the dispute.

[redacted] After the Closing Date, the Selling Stockholder and the Acquirer shall, and shall cause their respective Affiliates, officers, employees, agents, auditors and other representatives to, reasonably cooperate in (i) the preparation of all Tax Returns (including any amended Tax Returns) for any taxable periods for which one party could reasonably require the assistance of the other party in obtaining any necessary information, and (ii) preparing for any audits of, or disputes with, any taxing authority regarding any Taxes or Tax Returns filed by or with respect to the Company. Notwithstanding anything to the contrary herein, the Selling Stockholder and Iowa Pacific shall have control of tax matters relating to the [redacted]; provided, that the Selling Stockholder or Iowa Pacific shall not, without the written consent of the Acquirer, which consent shall not be unreasonably withheld, delayed or conditioned, consent to the entry of any judgment or settle the [redacted], or otherwise obligate the Company or any other Person to make any payments pursuant to the [redacted]

(i) The Selling Stockholder shall, and shall cause its Affiliates to, terminate on or before the Closing Date any and all Tax allocation, Tax indemnity or Tax sharing agreement with respect to the Company, and after the Closing, the Company shall not be bound by and shall not have any liability thereunder.

(j) Pursuant to the [redacted], dated [redacted], among Iowa Pacific, the Selling Stockholder, the Company, [redacted] and

the other parties thereto (the [redacted]), the Acquirer agrees to cause the Company, in accordance with the terms set forth therein, [redacted] Company referenced [redacted] The Acquirer and the Company shall cooperate with the reasonable requests of Iowa Pacific and Selling Stockholder to document such assignment. Neither the Acquirer nor any of its Affiliates shall [redacted] IPH and the Selling Stockholder agree, and agree to cause any of their respective Affiliates, to sign and deliver any notices and other documentation necessary [redacted] Further, IPH and the Selling Stockholder agree not to supplement, amend or otherwise modify the [redacted] in a manner that would or would reasonably be expected to adversely affect the Company or its Affiliates without the prior written consent of the Acquirer.

Section 5.16 Employees.

(a) Iowa Pacific and the Selling Stockholder agree, and agree to cause their respective Affiliates, to transfer the employees listed on Schedule 2.9(a)(i) to the Company prior to the Closing, including all employees of [redacted] whose primary place of employment is located in the State of Arizona and provide services to the Company. The Company shall be responsible for notifying its employees of the terms of this Agreement as it affects and/or relates to them and for complying with any applicable Laws regarding such notices.

(b) Iowa Pacific, the Selling Stockholder and the Company shall take such actions prior to the Closing Date to ensure that (i) no employee of the Company will accrue additional benefits under a Seller Benefit Plan following the Closing Date, (ii) the Company will not be a participating employer with respect to any Seller Benefit Plan from and after the Closing Date and (iii) the Selling Stockholder shall retain all liabilities with respect to Seller Benefit Plans from and after the Closing Date and shall indemnify the Company from any such liabilities.

Section 5.17 Non-Competition; No Hire.

[redacted]Each of the Selling Stockholder and Iowa Pacific agrees, and agrees to cause each of its Affiliates (together with the Selling Stockholder and Iowa Pacific, the "Non-Compete Persons") to agree, that for a period of five (5) years after the Closing Date, such Non-Compete Person shall not directly or indirectly, including in his individual capacity or through any entity, [redacted] (ii) engage in (as an officer, director, employee, shareholder, partner, joint venturer, agent or otherwise) or provide services to (including the provision of any information or advice) any [redacted]

[redacted]

[redacted] From the date of the Agreement until the [redacted] of the Closing, each of the Selling Stockholder and Iowa Pacific will not directly or indirectly (A) induce or attempt to induce any officer or employee of the Company to leave the employ of the Acquirer, the Company or any of their respective direct or indirect Subsidiaries, or in any way interfere with the relationship between the Acquirer, the Company or any of their respective direct or indirect Subsidiaries and any such officer or employee, (B) hire any person who was an officer or employee of the Acquirer, the Company or any of their respective direct or indirect Subsidiaries at any time during the [redacted] immediately prior to the date on which such hiring would take place (it being conclusively presumed by the Selling Stockholder, Iowa Pacific, the Company and the Acquirer so as to avoid disputes under this Section 5.17(b) that any such hiring within such period is in violation of clause (A) above), or (C) solicit or attempt to induce any customer, supplier, licensee, licensor or other business relation of the Acquirer, the Company or any of their respective direct or indirect Subsidiaries to cease doing or decrease their business with the Acquirer, the Company or any of their respective direct or indirect Subsidiaries, or in any way interfere with the relationship between any such customer, supplier, licensee, licensor or business relation and the Acquirer, the Company or any of their respective direct or indirect Subsidiaries (including making any disparaging statements or communications about the Acquirer, the Company or any of their respective direct or indirect Subsidiaries, or their Affiliates). [redacted]

(c) Each of the Selling Stockholder, Iowa Pacific, the Company and the Acquirer acknowledges and agrees that the remedy of indemnity payments pursuant to Article XIII and other remedies at law for any breach of the requirements of this Section 5.17 would be inadequate, and agrees and consents that, without intending to limit any additional remedies that may be available, temporary and permanent injunctive and other equitable relief may be granted without proof of actual damage or inadequacy of legal remedy, in any proceeding which may be brought to enforce any of the provisions of this Section 5.17.

Section 5.18 Confidentiality.

(a) From and after the Closing, Iowa Pacific and the Selling Stockholder shall, and shall cause its Affiliates and Representatives to, treat and hold as confidential any non-public information of the Company and its Subsidiaries (such information, the "Confidential Information") and refrain from using such Confidential Information except in connection with this Agreement, or as may otherwise be required by Law. In the event any of the foregoing Persons is required by Law to disclose any Confidential Information, such party shall promptly notify the Company in writing, which notification shall include the nature of the legal requirement and the extent of the required disclosure, and shall cooperate with the Company to preserve the confidentiality of such information consistent with applicable Law.

(b) Each of the Selling Stockholder, Iowa Pacific, the Company and the Acquirer acknowledges and agrees that the remedy of indemnity payments pursuant to Article XIII and other remedies at law for any breach of the requirements of this Section 5.18 would be inadequate, and agrees and consents that, without intending to limit any additional remedies that may be available, temporary and permanent injunctive and other equitable relief may be granted without proof of actual damage or inadequacy of legal remedy, in any proceeding which may be brought to enforce any of the provisions of this Section 5.18.

Section 5.19 [redacted] and Release of Encumbrances.

(a) In connection with the Closing, the Selling Stockholder shall [redacted] The [redacted] shall be in form and substance customary for transactions of this type and shall [redacted] The Selling Stockholder shall deliver all notices and take all other actions reasonably requested by the Acquirer to facilitate the termination of Company's obligations and commitments under the [redacted] and the release of all Encumbrances on the Company Stock and on Company's assets in connection therewith on the Closing Date and the filing of any applicable termination statements or delivery of other documentation evidencing the release of such Encumbrances on or as soon as practicable following the Closing Date.

(b) In connection with the Closing, the Selling Stockholder shall negotiate and obtain releases of all Encumbrances (other than Permitted Encumbrances) on the Company Stock and the property, rights and assets of the Company (which, for the avoidance of doubt, shall include all such property, rights and assets listed on Schedules 2.17(b), 2.17(e) and 5.4(b)), including (i) a release of any Encumbrances on such property, rights and assets pursuant to the [redacted] and related documents and a statement that the Company does not have any obligations pursuant to the [redacted] (the [redacted]) and (ii) a release of any Encumbrances on such property, rights and assets pursuant to the [redacted] and related documents and a statement that the Company is no longer a party to, and has no further obligations pursuant to, the [redacted] (the [redacted]).

(c) In connection with the Closing, the Selling Stockholder shall negotiate and obtain a [redacted] with respect to the obligations of the Company pursuant to the [redacted] (the [redacted]). The [redacted] shall be in form and substance customary for transactions of this type and shall (i) indicate the total amount to be required to be paid to satisfy all principal, interest, prepayment premiums,

penalties, breakage costs, reimbursements or similar obligations of the Company related to such Indebtedness as of the Closing Date (the [redacted]), (ii) state that all Encumbrances in connection therewith (including pursuant to any deed of trust) relating to the assets of the Company shall be, upon the payment of the [redacted] Amount on the Closing Date, released and (iii) authorize the Company to file any termination statements to evidence the release of such Encumbrances. The Selling Stockholder shall deliver all notices and take all other actions reasonably requested by the Acquirer to facilitate the termination of obligations and commitments under the [redacted], the repayment in full of all obligations then outstanding thereunder and the release of all Encumbrances in connection therewith on the Closing Date and the filing of any applicable termination statements or delivery of other documentation evidencing the release of such Encumbrances on or as soon as practicable following the Closing Date.

(d) The [redacted], [redacted], the [redacted] and other releases obtained pursuant to Section 5.19 shall be obtained by the Selling Stockholder without the Company incurring any liabilities or obligations.

Section 5.20 **Pre-Closing FELA Claims**. The administration, handling and disposition of Pre-Closing FELA Claims shall be the responsibility of the Selling Stockholder. The costs and expenses of the administration, handling and disposition of Pre-Closing FELA Claims shall be borne by the Selling Stockholder.

Section 5.21 [redacted]. For the period commencing on the Closing Date and lasting until the fifth anniversary of the Closing Date, Iowa Pacific shall not permit at any time the difference between the fair market value of Iowa Pacific's and its Subsidiaries' consolidated assets (excluding, for the avoidance of doubt, any interest in the Escrow Funds or Tax Escrow Funds) and the fair market value of Iowa Pacific's and its Subsidiaries consolidated liabilities to be less than [redacted].

Section 5.22 **Locomotives and Rail Cars.**

(a) On or before the Closing Date, Iowa Pacific and the Selling Stockholder shall ensure that the Company owns or leases all of the locomotives and rail cars currently used in connection with the operations and businesses of the Company (other than the Excluded Assets), including such locomotives and rail cars listed on Schedule 5.22(a), or such other locomotives and rail cars as the parties may mutually agree hereafter (collectively, the "Locomotives and Rail Cars"). With respect to any of the Locomotives and Rail Cars that are not owned or leased by Company as of the date hereof, but are listed on Schedule 5.22(a) as to be owned by Company by the Closing Date, such Locomotives and Rail Cars shall be conveyed by bill of sale (in a form reasonably acceptable to the Acquirer) to the Company, free and clear of all Encumbrances, as part of the Total Consideration without any additional cost or liability to the Company or the Acquirer. With respect to any of the Locomotives and Rail Cars that are not owned or leased by Company as of the date hereof, but are listed on Schedule 5.22(a) as to be leased by the Company by the Closing Date, the Selling Stockholder shall ensure that the Company is able to lease such Locomotives and Rail Cars pursuant to a [redacted] Total Consideration. The actual

delivery of the Locomotives and Rail Cars not already within Company's possession or control, shall occur on or before the Closing.

EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES OF THE SELLING STOCKHOLDER AND THE COMPANY EXPRESSLY SET FORTH IN THIS AGREEMENT AND IN ANY APPLICABLE BILL OF SALE, ACQUIRER AND COMPANY AGREE THE LOCOMOTIVES AND RAIL CARS, THE OWNERSHIP OF WHICH ARE TO BE TRANSFERRED TO COMPANY AS PROVIDED ABOVE, SHALL BE DELIVERED TO THE COMPANY BY SELLING STOCKHOLDER AND/OR ITS AFFILIATES "AS-IS, WHERE-IS," WITHOUT ANY OTHER REPRESENTATIONS AND WARRANTIES, WHETHER WRITTEN, ORAL OR IMPLIED, AND SELLING STOCKHOLDER AND ITS AFFILIATES SHALL NOT, BY VIRTUE OF HAVING SOLD SUCH LOCOMOTIVES AND RAIL CARS HEREWITH, BE DEEMED TO HAVE MADE ANY REPRESENTATION OR WARRANTY AS TO THE MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF SUCH LOCOMOTIVES AND RAIL CARS EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT AND IN ANY APPLICABLE BILL OF SALE.

(b) The parties agree that any locomotive or rail car that Company owns or leases as of the date hereof and are listed on Schedule 5.22(b) (the "Excluded Assets") shall be excluded from the Transactions and shall be conveyed or transferred out of the Company to Selling Stockholder or such of its Affiliates as Selling Stockholder may designate, at or before Closing. With respect to Excluded Assets that Company currently owns, such Excluded Assets shall be conveyed by bill of sale to Selling Stockholder or such other of its Affiliates as Selling Stockholder may designate, free and clear of all Encumbrances, for no further consideration. With respect to Excluded Assets that Company currently leases, Company shall assign and transfer to Selling Stockholder or such other of its Affiliates as Selling Stockholder may designate, Company's rights and interests in the leases covering such Excluded Assets, and shall obtain any necessary consents and approvals from all applicable lessors of such Excluded Assets. In addition, the Selling Stockholder agrees, effective at the time of the transfer of any Excluded Asset, to assume and satisfy, discharge or perform when due any liability of the Company to the extent related to such Excluded Asset initially accruing on or prior to the date of such transfer other than any of the Assumed Liabilities. The actual delivery of the Excluded Assets will occur on or before the Closing.

SELLING STOCKHOLDER AGREES THE EXCLUDED ASSETS, THE OWNERSHIP OF WHICH ARE TO BE TRANSFERRED TO SELLING STOCKHOLDER AND/OR ITS AFFILIATES AS PROVIDED ABOVE, SHALL BE DELIVERED TO SELLING STOCKHOLDER AND/OR ITS AFFILIATES BY COMPANY "AS-IS, WHERE-IS," WITHOUT ANY OTHER REPRESENTATIONS AND WARRANTIES, WHETHER WRITTEN, ORAL OR IMPLIED, AND COMPANY SHALL NOT, BY VIRTUE OF HAVING SOLD SUCH EXCLUDED ASSETS HEREWITH, BE DEEMED TO HAVE MADE ANY REPRESENTATION OR WARRANTY AS TO THE MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF SUCH EXCLUDED ASSETS.

(c) The parties hereto shall cooperate with each other as may be reasonably necessary to effectuate the purposes of foregoing, including but not limited to, the execution of

any necessary instruments or documents, the filing of any necessary notices and the granting of any necessary consents or waivers.

ARTICLE VI

CONDITIONS PRECEDENT TO THE ACQUIRER'S OBLIGATIONS

Notwithstanding the provisions of Article I, the Acquirer shall be obligated to perform the acts contemplated for performance by them under Article I only if each of the following conditions is satisfied at the Closing Date, unless any such condition is waived in writing by the Acquirer:

Section 6.1 Accuracy of Representations and Warranties by the Company, Iowa Pacific and Selling Stockholder. Each representation and warranty of the Company, Iowa Pacific and the Selling Stockholder contained in this Agreement (a) that is qualified as to materiality or Material Adverse Effect shall be true and correct in all respects as of the Closing Date as though each such representation and warranty had been made on and as of the Closing Date, except to the extent any such representation and warranty expressly speaks only as of an earlier date (in which case as of such earlier date), and (b) that is not so qualified shall be true and correct in all material respects as of the Closing Date as though each such representation and warranty had been made on and as of the Closing Date, except to the extent any such representation and warranty expressly speaks only as of an earlier date (in which case as of such earlier date). Each representation and warranty of the Company in Section 2.2, Section 2.3, Section 2.13, Section 2.14(a), Section 2.21, Section 3.2, Section 3.5 and Section 3.7 shall be true and correct in all respects as of the Closing Date as though each such representation and warranty had been made on and as of the Closing Date, except to the extent any such representation and warranty expressly speaks only as of an earlier date (in which case as of such earlier date). The Acquirer shall have received a certificate from the chief executive officer of the Company (with respect to the representations and warranties in Article II) and Iowa Pacific and the Selling Stockholder (with respect to the representations and warranties in Article III) to such effect.

Section 6.2 Compliance by the Company. The Company, the Selling Stockholder and Iowa Pacific shall each have performed and complied in all material respects with all covenants, agreements and obligations under this Agreement required to be performed or complied with prior to or at the Closing. The Acquirer shall have received a certificate from the chief executive officer of the Company (with respect to performance by the Company and Iowa Pacific) and Iowa Pacific and the Selling Stockholder (with respect to performance by Iowa Pacific and the Selling Stockholder) to such effect.

Section 6.3 No Pending Litigation. No Action shall be pending or threatened against the Company, the Acquirer or their respective Affiliates pursuant to which any unfavorable Order would (a) prevent or delay the consummation of any of the Transactions, (b) allow any of the Transactions to be rescinded following the Closing, or (c) affect adversely in any material respect the right of the Acquirer to operate the business of the Company (and no such Order shall be in effect).

Section 6.4 **Consents and Approvals**. The Company shall have received all Requisite Approvals.

Section 6.5 **Absence of Material Adverse Effect**. Since [redacted], there shall not have occurred any event, change or circumstance that, individually or in the aggregate, has had or could reasonably be expected to have a Material Adverse Effect on the Company.

Section 6.6 **Escrow Agreement**. The Selling Stockholder shall have delivered its duly executed signature page counterpart to the Escrow Agreement to the Acquirer.

[redacted]. Iowa Pacific and the Selling Stockholder shall have delivered its duly executed signature page counterparts to the [redacted] to the Acquirer.

Section 6.8 [redacted]. The Company shall have delivered the [redacted] and the [redacted] to the Acquirer.

Section 6.9 [redacted]. The Company shall have delivered the [redacted] to the Acquirer.

Section 6.10 [redacted]. The Company shall have delivered the [redacted] duly executed by the Company and [redacted].

[redacted]. The Company shall have delivered the [redacted] duly executed by [redacted] and the [redacted] executed by [redacted].

Section 6.12 [redacted]. The Acquirer shall have received copies of certifications executed by the Company, which certifications shall be in the form attached hereto as Exhibit B certifying such facts as to establish that the Transactions are exempt from withholding pursuant to Section 1445 of the Code.

ARTICLE VII

CONDITIONS PRECEDENT TO THE COMPANY'S, THE SELLING STOCKHOLDER'S AND IOWA PACIFIC'S OBLIGATIONS

Notwithstanding the provisions of Article I, the Company, the Selling Stockholder and Iowa Pacific shall be obligated to perform the acts contemplated for performance by them under Article I only if each of the following conditions is satisfied at or prior to the Closing Date, unless any such condition is waived in writing by the Selling Stockholder:

Section 7.1 **Accuracy of Representations and Warranties by the Acquirer**. Each representation and warranty of the Acquirer contained in this Agreement (a) that is qualified as to materiality shall be true and correct in all respects as of the Closing Date as though each such representation and warranty had been made on and as of the Closing Date, except to the extent

any such representation and warranty expressly speaks only as of an earlier date (in which case as of such earlier date), and (b) that is not so qualified shall be true and correct in all material respects as of the Closing Date as though each such representation and warranty had been made on and as of the Closing Date, except to the extent any such representation and warranty expressly speaks only as of an earlier date (in which case as of such earlier date). The Company shall have received a certificate from an executive officer of the Acquirer to the foregoing effect.

Section 7.2 **Compliance by the Acquirer**. The Acquirer shall have performed and complied in all material respects with all of their covenants, agreements and obligations under this Agreement to be performed or complied with by them on or before the Closing Date. The Company shall have received a certificate from an executive officer of the Acquirer to the foregoing effect.

Section 7.3 **Escrow Agreement**. The Acquirer shall have delivered its duly executed signature page counterpart to the Escrow Agreement to the Selling Stockholder.

Section 7.4 [redacted]. The Acquirer shall have delivered its duly executed signature page counterpart to the [redacted] to the Selling Stockholder.

Section 7.5 [redacted]. No Order shall be in effect that prevents or makes illegal the consummation of any of the Transactions.

ARTICLE VIII

INDEMNIFICATION

Section 8.1 **Indemnity by Iowa Pacific and the Selling Stockholder**. Subject to the limitations in Section 8.4 below, each of the Selling Stockholder and Iowa Pacific agrees, from and after the Closing to jointly and severally indemnify, defend and hold harmless the Acquirer, the Company and their respective Affiliates (and their respective directors, managers, officers, employees, advisors, agents and other representatives) (each, an "Indemnified Party", and together the "Indemnified Parties") from and against any and all claims, liabilities, losses, damages, payments, deficiencies, awards, settlements, assessments, judgments, costs and expenses, including the reasonable fees and disbursements of counsel, interest and penalties (collectively, "Losses"), which any of such Indemnified Parties shall incur, sustain or suffer and which relate to or arise, directly or indirectly, out of or in connection with (i) any breach or inaccuracy by the Company, the Selling Stockholder or Iowa Pacific of any representation or warranty in this Agreement or any certificate or instrument delivered pursuant hereto (other than a breach or inaccuracy of a representation or warranty contained in Section 2.10 hereof, which shall be covered by Section 8.2), (ii) any breach or non-compliance by the Company, the Selling Stockholder or Iowa Pacific of any covenant or agreement in this Agreement or any certificate or instrument delivered pursuant hereto, (iii) any Excluded Liability, (iv) the Company Transaction Expenses or (v) the [redacted] or the application or use by any Person [redacted].

Section 8.2 Indemnification for Taxes. Each of Iowa Pacific and the Selling Stockholder agrees to jointly and severally indemnify, defend and hold harmless each Indemnified Party from and against (i) any and all liabilities of the Company for Taxes (or claims with respect thereto) with respect to or relating to the period or portion thereof ending on or prior to the Closing Date including for any Straddle Periods to the extent allocable to the period ending on the Closing Date pursuant to Section 5.15(c), (ii) any and all liabilities for Taxes resulting from a breach or inaccuracy of a representation or warranty contained in Section 2.10 or any certificate or instrument delivered pursuant hereto, (iii) [redacted] of all transfer, documentary, sales, use, registration and any other such Taxes (including all applicable real estate transfer Taxes) and related fees (including any penalties, interest and additions to Taxes) arising out of or incurred in connection with this Agreement or the Transactions, (iv) any payments required to be made after the Closing Date under any Tax allocation, Tax indemnity or Tax sharing agreement or similar contract or arrangement to which the Company was obligated, bound by or was a party on or prior to the Closing Date, (v) any and all liabilities (as a result of Treasury Regulations Section 1.1502-6 or otherwise) for Taxes of the Selling Stockholder or any other Person which is or has ever been affiliated with the Company or with whom the Company otherwise joins or has ever joined (or is or has ever been required to join) in filing any consolidated, combined, unitary or aggregate Tax Return, on or prior to the Closing Date, (vi) any and all liabilities for Taxes resulting from the Elections pursuant to Section 5.15(e), and (vii) any and all liabilities for Losses incurred by the Indemnified Parties in connection with any action, suit, proceeding, demand, assessment, judgment or investigation relating to any of the matters indemnified against in this Section 8.2, [redacted], and, in each case, only to the extent not paid out of the Escrow Funds or Tax Escrow Funds, as applicable, pursuant to Section 5.15.

Section 8.3 Claims.

(a) Any Indemnified Party shall promptly notify Iowa Pacific and the Selling Stockholder of any action, suit, proceeding, demand or breach (a "Claim") with respect to which the Indemnified Party claims indemnification hereunder pursuant to Section 8.1 or Section 8.2 hereof. For purposes of this Agreement, the term "Indemnifying Party" shall mean the Selling Stockholder or Iowa Pacific. Any failure of the Indemnified Party to give any notice required under this Section 8.3(a) shall not relieve the Indemnifying Party of its obligations under this Article VIII, except to the extent that the defense of such Claim is materially prejudiced by such failure.

(b) If such Claim relates to any action, suit, proceeding or demand instituted against the Indemnified Party by a third party other than with respect to Taxes (a "Third Party Claim"), then the Indemnifying Party shall be entitled to participate in the defense of such Third Party Claim at its own expense. Within [redacted] after the Indemnified Party gives written notice of such Third Party Claim pursuant to Section 8.3(a), the Indemnifying Party may assume the defense of such Third Party Claim with counsel reasonably satisfactory to the Indemnified Party by providing the Indemnified Party with written notice of its election to assume such defense and acknowledgement that such Third Party Claim may be subject to indemnification in favor of the Indemnified Party. Prior to the assumption of such defense by the Indemnifying Party, the Indemnified Party shall be entitled to take reasonable actions as may be necessary or advisable to preserve any and all rights of the Indemnified Party and the

Indemnifying Party with respect to any Third Party Claim pending a determination by the Indemnifying Party as to whether or not to assume the defense of such Third Party Claim pursuant to, and in accordance with, the provisions of this Section 8.3(b), and, so long as the Indemnified Party has given written notice of such Third Party Claim pursuant to Section 8.3(a), the Indemnifying Party shall be responsible for the costs (including the reasonable fees and expenses of its advisers) incurred by the Indemnified Party in connection with such reasonable actions to the extent that such reasonable actions are taken after such written notice is given. Notwithstanding the right of the Indemnified Party to retain its own counsel as described below, the Indemnifying Party shall have the authority to negotiate, compromise and settle such Third Party Claim; provided that the Indemnifying Party, shall not, without the consent of the Indemnified Party, which consent shall not be unreasonably withheld, delayed or conditioned, consent to the entry of any judgment or settle any such Third Party Claim unless the Indemnified Party is unconditionally released from all liability in respect of such Third Party Claim, the judgment or settlement is solely for monetary damages and does not involve any finding or admission by the Indemnified Party of any violation of Law and the Indemnified Party receives assurances satisfactory to the Indemnified Party that there will be no continuing restrictions on the business of the Indemnified Party with respect to such Third Party Claim.

(c) The Indemnified Party shall retain the right to employ its own counsel and to participate in the defense of any Third Party Claim, the defense of which has been assumed by the Indemnifying Party pursuant hereto, but the Indemnified Party shall bear and shall be solely responsible for its own costs and expenses in connection with such participation, unless (1) the Indemnified Party has been advised by counsel that representation of the Indemnified Party and the Indemnifying Party by the same counsel could present a conflict of interest under applicable standards of professional conduct, (2) the Indemnified Party has been advised by counsel that there may be legal defenses available to it which are different from or in addition to the defenses available to the Indemnifying Party and in the reasonable judgment of such counsel it is advisable for the Indemnified Party to employ separate counsel or (3) the Indemnifying Party shall have failed to prosecute such defense in good faith. In no event will the Indemnified Party consent to the entry of any judgment or enter into any settlement with respect to any Third Party Claim for which it seeks indemnification hereunder without the prior written consent of the Indemnifying Party (which consent shall not be unreasonably withheld, conditioned or delayed).

Section 8.4 Limitations on Indemnification.

(a) Subject to the other provisions of this Section 8.4, no Indemnifying Party shall be required to indemnify an Indemnified Party hereunder for any Claim pursuant to clause (i) of Section 8.1 except to the extent that the aggregate amount of Losses for which all Indemnified Parties are otherwise entitled to indemnification pursuant to clause (i) of Section 8.1 exceeds [redacted], in which event the Indemnifying Parties shall be liable for the full amount thereof, subject to the limitations on the maximum amount of recovery set forth in Section 8.4(b).

(b) Subject to the other provisions of this Section 8.4 and other than in the case of fraud or intentional misrepresentation, the aggregate Losses payable by the Selling Stockholder with respect to all Claims for indemnification pursuant to clause (i) of Section 8.1 shall not exceed [redacted].

(c) In addition, the Losses for which an Indemnified Party shall be entitled to indemnification shall be net of any insurance proceeds actually received by such Indemnified Party in connection with the circumstances giving rise to such claim for indemnification. To the extent the Acquirer collects any insurance proceeds relating to any Claim paid pursuant to this Article VIII, the Acquirer shall provide written notice to the Indemnifying Party and, if and to the extent that the Acquirer shall have received indemnification under this Article VIII in connection with the circumstances giving rise to the receipt of such insurance proceeds, shall promptly turn over such insurance proceeds to the appropriate Indemnifying Party. Further, the Losses for which an Indemnified Party shall be entitled to indemnification shall be reduced by any amounts specifically included as a "current liability" of the Company on the Final Closing Date Schedule.

(d) No Indemnifying Party shall be liable for any Losses pursuant to Section 8.1 hereof unless a written claim for indemnification in accordance with Section 8.3 is given by the Indemnified Party to the Indemnifying Party within the applicable survival period specified in Section 8.4(f).

[redacted] Notwithstanding the foregoing, the limitations set forth in Section 8.4(a) and Section 8.4(b) shall not apply to Claims arising out of breaches of the representations and warranties set forth in [redacted]; provided, however, that the aggregate Losses payable by the Indemnifying Party with respect to all Claims for indemnification arising out of breaches of the representations and warranties set forth in [redacted]

(f) The representations and warranties of the parties contained in this Agreement shall survive the Closing, regardless of any investigation made by or on behalf of the Acquirer, for a period of [redacted] after the Closing Date; provided, however, that (i) the representations and warranties set forth in [redacted] shall survive the Closing and remain in full force and effect until the expiration of the applicable statute of limitations and (ii) the representations and warranties set forth in [redacted] and Section 2.15 shall survive the Closing until the date that is [redacted] after the expiration of the applicable statute of limitations; provided that any claim for breach of any representation or warranty contained herein made within such applicable time period shall survive until such claim is finally resolved. The covenants and agreements set forth in this Agreement to be performed after the Closing Date shall survive the Closing and remain in full force and effect until the date that is [redacted] after the expiration of the applicable statute of limitations; provided that, any claim for a breach of any such covenant or agreement received by the Indemnifying Party prior to such date with reasonable specificity shall survive until such claim is finally resolved. The indemnity provisions of clauses (iii), (iv) and (v) of [redacted] shall survive the Closing until [redacted] after the expiration of the statute of limitations applicable to the matter or issue that otherwise would result in a Claim under such clause or Section.

(g) Notwithstanding anything herein to the contrary, an Indemnified Party's right to indemnification or other remedies based upon the representations, warranties, covenants and agreements of the Indemnifying Party will not be affected by any investigation or knowledge of the Indemnified Party or any waiver by the Indemnified Party of any condition based on the

accuracy of any representation or warranty, or compliance with any covenant or agreement. Such representations and warranties and covenants and agreements shall not be affected or deemed waived by reason of the fact that the Indemnified Party knew or should have known that any representation or warranty might be inaccurate or that the Indemnifying Party failed to comply with any agreement or covenant. Any investigation by such party shall be for its own protection only and shall not affect or impair any right or remedy hereunder.

(h) For the purposes of calculating the amount of Losses, but not for determining whether a breach of a representation or warranty has occurred for the purposes of this Article VIII after the date hereof, all materiality, Material Adverse Effect and similar qualifiers, including those contained in the certificate contemplated by Section 6.1, shall be disregarded.

Section 8.5 Offset Against Subsequent Payments Due to the Acquirer. At its option the Acquirer may elect, in lieu of any payment due under this Article VIII from the Indemnifying Party to the Acquirer or any other Indemnified Party, to offset any such payment due from the Selling Stockholder against payments that otherwise are or become due by the Acquirer to the Selling Stockholder pursuant to Article I.

Section 8.6 Release of Escrow Funds.

(a) The Escrow Funds shall be available to the Indemnified Parties to satisfy any indemnification claim hereunder or under Section 5.15 and any amounts due the Acquirer under Section 1.7. Any balance of the Escrow Funds that has not been paid to the Acquirer, in accordance with this Agreement and the Escrow Agreement, plus any interest or income earned on the Escrow Funds that has not been so paid, by the conclusion of the Escrow Period, less any amounts necessary to secure any timely asserted and pending but unresolved the Acquirer claims for indemnification, shall be paid to the Selling Stockholder at the conclusion of the Escrow Period in accordance with the terms of the Escrow Agreement.

(b) [redacted] shall be available to the Indemnified Parties to satisfy any indemnification claim under [redacted] relating to the [redacted]. Any balance of the [redacted] that has not been paid to the Acquirer, in accordance with this Agreement and the Escrow Agreement, plus any interest or income earned on the [redacted] that has not been so paid, by the conclusion of the [redacted] shall be paid to the Selling Stockholder at the conclusion of the [redacted] in accordance with the terms of the Escrow Agreement.

Section 8.7 Purchase Price Adjustment. Any indemnification payments made pursuant to this Article VIII shall be treated as an adjustment to the purchase price for all federal, state, local and foreign Tax purposes, unless otherwise required by applicable Law.

ARTICLE IX

TERMINATION

Section 9.1 Termination. This Agreement may be terminated at any time prior to the Closing:

(a) by mutual written consent of the Acquirer and the Company;

(b) by either the Acquirer or the Company if (i) any Governmental Entity which must grant a Requisite Approval has denied such approval and such denial has become final and nonappealable or any Governmental Entity shall have issued an Order or taken any other action permanently restraining, enjoining or otherwise prohibiting any of the Transactions, and such Order or other action shall have become final and nonappealable, provided, however, that the right to terminate this Agreement under this Section 9.1(b)(i) shall not be available to any party whose failure to comply with Section 5.2 or any other provision of this Agreement has been the primary cause of such denial or other action, or (ii) the Closing shall not have occurred on or before [redacted] (the "Termination Date"); provided, that if the Company has not received [redacted] prior to [redacted], the Acquirer may elect, at its sole discretion, to extend the Termination Date until a date no later than [redacted] by delivering to the Company written notice of such election no later than [redacted]; provided, however, that the right to terminate this Agreement under this Section 9.1(b)(ii) shall not be available to any party whose failure to fulfill any obligations under this Agreement has been the primary cause of the failure of the Closing to occur on or before the Termination Date, [redacted] after such failure has been cured;

(c) by the Company, if, prior to Closing, (i) the Acquirer shall have failed to perform in any material respect any of its obligations under this Agreement to be performed at or prior to such date of termination, which failure to perform (A) would permit the Company not to consummate the Closing pursuant to Section 7.2 and (B) is not cured or is incapable of being cured within thirty (30) days after the receipt by the Acquirer of written notice of such failure, or (ii) any representation or warranty of the Acquirer contained in this Agreement shall not be true and correct, which failure to be true and correct (A) would permit the Company not to consummate the Closing pursuant to Section 7.1 and (B) is not cured or is incapable of being cured within thirty (30) days after the receipt by the Acquirer of written notice of such failure;

(d) by the Acquirer, if, prior to Closing, (i) the Company, the Selling Stockholder or Iowa Pacific shall have failed to perform in any material respect any of their respective obligations under this Agreement to be performed at or prior to such date of termination, which failure to perform (A) would permit the Acquirer not to consummate the Closing pursuant to Section 6.2 and (B) is not cured or is incapable of being cured within [redacted] after the receipt by the Company, the Selling Stockholder or Iowa Pacific of written notice of such failure, (ii) any representation or warranty of the Company, the Selling Stockholder or Iowa Pacific contained in this Agreement shall not be true and correct, which failure to be true and correct (A) would permit the Acquirer not to consummate the Transactions pursuant to Section 6.1 and (B) is not cured or is incapable of being cured within [redacted] after the receipt by the Company, the Selling Stockholder or Iowa Pacific of written notice of such failure.

Section 9.2 Effect of Termination. In the event of termination of this Agreement by either the Acquirer or the Company as provided in Section 9.1, written notice thereof shall forthwith be given to the other party or parties specifying the provision hereof pursuant to which such termination is made, and this Agreement shall forthwith become void and have no effect, and none of the Acquirer, the Company, any of their respective Affiliates or any of their

respective Representatives shall have any liability of any nature whatsoever hereunder, or in connection with the Transactions, except that (i) Section 5.3(b) (which shall survive in accordance with the terms of the [redacted] referenced therein), this Section 9.2, Article X and Article XI shall survive any termination of this Agreement, (ii) notwithstanding anything to the contrary contained in this Agreement, neither the Acquirer nor the Company or the Selling Stockholder shall be relieved or released from any liabilities or damages arising out of its knowing, intentional and material breach of any provision of this Agreement and (iii) in the event of a termination of this Agreement (A) by the Acquirer pursuant to Section 9.1(d) or (B) pursuant to Section 9.1(b) to the extent the Company, the Selling Stockholder or Iowa Pacific have not satisfied all of the conditions set forth in Article VI, within [redacted] of the provision of such notice by the Acquirer to the Company, Iowa Pacific shall, or shall cause the Selling Stockholder to, refund to the Acquirer the [redacted] (as that term is defined in the [redacted]) in accordance with the [redacted].

ARTICLE X

DEFINITIONS

Section 10.1 Glossary of Defined Terms. The definitions of the following terms may be found in the Section references set forth opposite each such term:

Defined Terms	Section
Acquirer	Preamble
Actions	2.8(a)
Affiliate	10.2
Affiliated Persons	2.16
Agreement	Preamble
Allocations	5.15(f)
Arbitrator	5.15(f)
[redacted]	10.2
Assumed Liabilities	1.8
Business	Recitals
[redacted]	10.2
[redacted]	10.2
[redacted]	5.4(b)
[redacted]	10.2
[redacted]	5.4(b)
[redacted]	10.2
[redacted]	5.4(b)
Claim	8.3(a)
Closing	1.1
Closing Amount	10.2
Closing Date	1.1
Closing Date Debt	10.2
Closing Date Net Working Capital	10.2
Closing Date Schedule	1.5(a)

Defined Terms	Section
Code	10.2
Company	Preamble
Company Benefit Plan	10.2
Company IP	2.20
Company Regulatory Agreement	2.22(b)
Company Stock	Recitals
Company Transaction Expenses	10.2
Company's Organizational Documents	2.1
Confidential Information	5.18(a)
Contract	10.2
[redacted]	5.19(a)
[redacted]	10.2
[redacted]	5.19(c)
[redacted]	10.2
[redacted]	5.19(c)
[redacted]	10.2
Elections	5.15(e)
Employee Benefit Plan	10.2
Encumbrance	10.2
Environmental Claim	10.2
Environmental Laws	10.2
Environmental Permits	10.2

Section 10.2 Defined Terms. As used herein the following terms not otherwise defined have the following respective meanings:

"Affiliate" means, with respect to any specified Person, any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such specified Person. As used in this definition the term "control" (including the terms "controlled by" and "under common control with") means, with respect to the relationship between or among two or more Persons, the possession, directly or indirectly, of the power to direct or cause the direction of the affairs or management of a Person, whether through the ownership of voting securities, as trustee or executor, by contract or otherwise, including the ownership, directly or indirectly, of securities having the power to elect a majority of the board of directors or similar body governing the affairs of such Person.

"[redacted]" means any audit by the [redacted] through the date of the Closing.

[redacted]

"Change of Control Payments" means any payments that are required to be made by the Company upon the execution of this Agreement or resulting from or in any way conditioned upon the consummation of the Transactions (including any such payments to directors, officers, employees or consultants of the Company, contractual counterparties and Governmental Entities).

[redacted] means the [redacted], dated as of [redacted], together with any amendments, modifications, schedules and other related documents.

[redacted] means the Storage and Services Agreement, dated as of [redacted], together with any amendments, modifications, schedules and other related documents.

[redacted] means Estimated Aggregate Consideration *minus* [redacted] *minus* [redacted] *minus* [redacted].

"Closing Date Debt" means the aggregate amount of all [redacted] of the Company, including [redacted], and any other expenses or obligations thereunder.

"Closing Date Net Working Capital" [redacted] means the current assets of the Company *minus* the current liabilities [redacted], determined immediately prior to the Closing in accordance with GAAP applied on a basis consistent with that employed by the Company in preparing the Financial Statements and in a manner consistent with Schedule 10.2(a). For avoidance of doubt, the following will not be taken into account in determining Closing Date Net Working Capital: (a) any Closing Date Debt, (b) the obligations of the Company to pay Company Transaction Expenses or any cash actually used to pay Company Transaction Expenses and (c) any and all payables of the Company owed to Iowa Pacific, the Selling Stockholder or any of its Affiliates.

"Code" means the Internal Revenue Code of 1986, as amended.

"Company Benefit Plan" means each Employee Benefit Plan that is sponsored or maintained by the Company.

"Company Transaction Expenses" means all Change of Control Payments and all of the fees and expenses owed by the Company or its Affiliates to its or Affiliate's investment bankers, attorneys, accountants, consultants, service providers and other professionals and advisors and payable in connection with this Agreement and the consummation of the Transactions.

"Contract" means any note, bond, mortgage, indenture, lease, contract, agreement, license, obligation, commitment or other arrangement (together with all amendments, modifications, waivers, extensions, renewals or other changes thereto).

"Credit Support Arrangements" means arrangements in which guaranties (including guaranties of performance or payment under agreements, commitment, obligations and permits), letters of credit or other credit or credit support arrangements, including bid bonds, advance payment bonds, performance bonds, payment bonds, retention and/or warranty bonds or other bonds or similar instruments, were or are issued, entered into or otherwise put in place by any Person other than any of the Company to support or facilitate, or otherwise in respect of, the obligations of the Company or agreements, commitment, obligations and permits of the Company.

[redacted] Note means [redacted].

[redacted]

"Employee Benefit Plan" means each plan, program, policy, payroll practice, contract, agreement or other arrangement providing for employment, change in control benefits, compensation (including deferred compensation), severance, termination or retention pay, retirement or pension benefits, welfare benefits, death benefits, transaction bonus, employee loan, performance awards, incentive awards, stock or stock-related awards, fringe benefits, insurance, short and long term disability, medical, vacation pay, cafeteria plan or other employee benefits of any kind to or for the benefit of any current or former employees, directors or consultants of the Company, or with respect to which the Company could otherwise have any liability, including, without limitation, each "employee benefit plan", within the meaning of Section 3(3) of ERISA and any collective bargaining agreements entered into by the Company.

"Encumbrance" means any title defect or objection, lien, pledge, mortgage, deed of trust, security interest, claim (whether or not made, known or contingent), judgment, lease, license, charge, pledge, option, escrow, right of first refusal or offer, preemptive right, conditional sale or other title retention agreement, easement, encroachment or other real estate declaration, covenant, condition, restriction or servitude, transfer restriction under any stockholder or similar agreement, encumbrance or any other restriction or limitation whatsoever, in each case other than Permitted Encumbrances.

"Environmental Claim" means any claim, action, suit, investigation, demand, notice of non-compliance or violation, notice of liability, proceeding, consent order or consent agreement by or on behalf of, any Governmental Entity or Person alleging potential liability under, or a violation of, any Environmental Law, or relating to Materials of Environmental Concern.

"Environmental Laws" means any and all Laws regulating, relating to or imposing liability or standards of conduct concerning protection of the environment or of human health.

"Environmental Permits" means any and all permits, licenses, certificates, approvals, registrations, notifications, exemptions and any other authorization pursuant to or required under any Environmental Law.

"Environmental Report" means any report, study, assessment, audit or other similar document that addresses any issue of actual or potential noncompliance with, actual or potential liability under or cost arising out of, or actual or potential impact on business in connection with, any Environmental Law or relating to Materials of Environmental Concern, or any proposed or anticipated change in or addition to Environmental Law, that may affect the Company or its business, operations or assets.

"Equipment and Machinery" means all the material equipment, machinery, furniture, fixtures and improvements, tooling, spare parts, supplies and vehicles (including all locomotives, cars, tractors, trailers, vans and all other transportation rolling stock) owned, leased or used (except third-party locomotives and rolling stock used pursuant to AAR interchange rules) by the Company.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended.

"Escrow Account" means the escrow account established by the Escrow Agreement.

"Escrow Agent" means the escrow agent under the Escrow Agreement, who shall be mutually agreed upon by the Acquirer and the Selling Stockholder.

"Escrow Agreement" means the Escrow Agreement in substantially the form attached hereto as Exhibit A to be entered into among the Acquirer, the Selling Stockholder and the Escrow Agent.

"Escrow Amount" means the [redacted] payable by or on behalf of the Acquirer by wire transfer in immediately available funds to the Escrow Agent for deposit into the Escrow Account pursuant to the terms of the Escrow Agreement.

"Escrow Funds" means, at any given time after Closing, the funds remaining in the Escrow Account, including remaining amounts of interest actually earned.

"Escrow Period" means the period beginning on the Closing Date and ending on the date [redacted] following the Closing Date.

"Estimated Adjustment Amount" (which may be a negative number) means Estimated Closing Date Debt *plus* the Estimated Company Transaction Expenses *minus* the Estimated Closing Date Net Working Capital.

"Estimated Aggregate Consideration" means Total Consideration *minus* the Estimated Adjustment Amount.

"FELA Claim" means a claim made under the Federal Employers Liability Act, as amended from time to time or the occurrence of an on the job accident that may give rise to a claim under the Federal Employers Liability Act. A FELA Claim is considered "made" upon the earliest to occur of the following: (i) a claimant's employer has received or prepared a written report (including, in the case of an alleged occupational injury, a questionnaire) of the claim or of the incident from which the claim arises; (ii) the claimants employer has received written notice of the claim from the claimant or the claimant's attorney; or (iii) an action, claim or suit asserting the claim has been filed and properly served on the claimant's employer. For the purpose of this definition, the term "written report" shall include reports which are electronically prepared or transmitted and the term "employer" shall include the employer currently responsible under the Federal Employers Liability Act for the claim or cause of action being asserted and such employer's attorney.

"Final Adjustment Amount" (which may be a negative number) means Closing Date Debt *plus* the Company Transaction Expenses *minus* the Closing Date Net Working Capital.

"Final Aggregate Consideration" means Total Consideration *minus* the Final Adjustment Amount.

"Financial Statements" means with respect to the Company: (i) the statement of income for the Company for the years ended December 31, 2007, December 31, 2008, December 31, 2009 and December 31, 2010 and (ii) the statement of income for each calendar month subsequent to December 31, 2010 and before Closing.

[redacted] Agreement" means [redacted].

"GAAP" means United States generally accepted accounting principles which are consistent with the principles promulgated or adopted by the Financial Accounting Standards Board and its predecessors, in effect from time to time.

"Governmental Entity" means any government or any court, arbitral tribunal, administrative agency or commission or other governmental or other regulatory authority or agency, federal, state, local, transnational or foreign.

[redacted] Agreement" means the [redacted].

"Indebtedness" means, as applied to any Person, at any particular time, without duplication, all (a) indebtedness of such Person for borrowed money or issued in substitution for or exchange of indebtedness for borrowed money or any obligations with respect to overdrafts, (b) obligation of such Person evidenced by any note, bond, debenture, debt security or similar instrument, (c) indebtedness of such Person for the deferred purchase price of assets, property or services with respect to which such Person is liable, contingently or otherwise, as obligor or otherwise (other than current trade payables and other current liabilities incurred in the ordinary course of business which are not more thirty (30) days past due), (d) obligations, contingent or otherwise, under acceptance, letter of credit or other credit support obligations, (e) obligations under capitalized or financing leases with respect to which such Person is liable as obligor or guarantor, (f) liabilities under any interest rate, commodity, currency or other hedge or swap agreement, derivative instrument, or other hedging arrangement, (g) any obligation arising with respect to any transaction which is the functional equivalent of, or takes the place of, borrowing but which does not constitute a liability on the balance sheet, (h) all direct or indirect guarantee, support or keep well obligations in respect of obligations of the kind referred to in clauses (a) through (g) above, (i) all obligations of the kind referred to in clauses (a) through (h) above secured by (or for which the holder of such obligation has an existing right, contingent or otherwise, to be secured by) any Encumbrance on assets, rights or property (including accounts and contract rights) owned by the Company or any Subsidiary, whether or not such Person has assumed or becomes liable for the payment of such obligation, (j) all accrued interest, interest payable, fees, reimbursements and expenses related to obligations of the kind referred to in clauses (a) through (h) above and (k) all unpaid prepayment penalties, premiums, costs and fees that would arise as a result of the prepayment of obligations of the kind referred to in clauses (a) through (h) above.

"Intellectual Property" means all U.S. or foreign intellectual property, including (i) patents, trademarks, service marks, trade names, domain names, other source indicators and the goodwill of the business symbolized thereby, copyrights and works of authorship in any medium and designs, (ii) inventions, processes, know-how and software and (iii) trade secrets and other proprietary or confidential information.

"IRS" means the Internal Revenue Service.

"[redacted]" means [redacted]

"Knowledge" or "Knowledge of the Company" (including all correlative terms such as known, knows, etc.) means, with [redacted]

"Law" means any law, statute, ordinance, rule (including common law), regulation, Order, settlement agreement, guideline, code, decree or other legally enforceable requirement of any Governmental Entity, and includes rules and regulations of any regulatory or self-regulatory authority.

"Leased Real Property" means the real property leased, subleased, licensed or otherwise occupied by the Company, together with, to the extent leased, subleased, licensed or otherwise used by the Company, all buildings and other structures, facilities or improvements now or subsequently located thereon, all fixtures, systems and equipment attached or appurtenant thereto.

"Letter of Intent" means that certain letter of intent, dated July 11, 2011, between the Acquirer, the Selling Stockholder, Iowa Pacific and the Company.

"Material Adverse Effect" means, with respect to any Person, any development, circumstance, effect or change that, individually or in the aggregate, is or is reasonably likely to be materially adverse to the business, operations, assets, liabilities, condition (financial or otherwise) or results of operations of such Person and its Subsidiaries, taken as a whole, [redacted]

"Materials of Environmental Concern" means any gasoline or petroleum (including crude oil or any fraction thereof) or petroleum products, hazardous substances, polychlorinated biphenyls, urea-formaldehyde insulation, asbestos, molds, pollutants, contaminants, radioactivity, and any other substances of any kind, regulated pursuant to or that could give rise to liability under any Environmental Law.

"Order" means any judicial or administrative judgment, decision, decree, order, settlement, injunction, writ, stipulation, determination, charge or award, or binding arbitral award.

"Owned Real Property" means the real property or interests in real property owned by the Company, together with all buildings and other structures, facilities or improvements now or subsequently located thereon, all fixtures, systems and equipment of the Company attached or appurtenant thereto and all easements, licenses, rights and appurtenances relating to the foregoing.

"Permitted Encumbrances" means (a) Encumbrances that arise out of Taxes not in default and payable without penalty or interest or the validity of which is being contested in good faith by appropriate proceedings and for which appropriate reserves have been established in accordance with GAAP, (b) workmen's, repairmen's or other similar Encumbrances arising or incurred by the operation of law and in the ordinary course of business in respect of obligations which are not overdue, (c) minor title defects, recorded easements or Encumbrances affecting Real Property or Personal Property, which defects, easements or Encumbrances do not, individually or in the aggregate, impair the continued use, occupancy, value or marketability of title of the Real Property or Personal Property to which they relate, assuming that the property is used on substantially the same basis as such property is currently being used by the Company or (d) Encumbrances listed in Schedule 10.2(b) (other than those noted as being discharged prior to Closing).

"Person" means any corporation, association, partnership, limited liability company, organization, business, individual, government or political subdivision thereof or governmental agency.

"Personal Property" means all furniture, fixtures, Equipment and Machinery and other items of tangible personal property.

"Pre-Closing FELA Claims" means any FELA Claims involving the Company relating to incidents that occur prior to the Closing.

"Railroad Assets" means all assets, properties and rights (including the Rail Facilities), real and personal, of the Company.

"Real Property" means, collectively, the Leased Real Property and the Owned Real Property.

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"Seller Benefit Plan" means each Employee Benefit Plan that is not a Company Benefit Plan.

"STB" means the Surface Transportation Board of the United States Department of Transportation.

"Subsidiary(ies)" means, with respect to any Person, any corporation a majority (by number of votes) of the outstanding shares of any class or classes of which shall at the time be owned by such Person or by a Subsidiary of such Person, if the holders of the shares of such class or classes (a) are ordinarily, in the absence of contingencies, entitled to vote for the election of a majority of the directors (or persons performing similar functions) of the issuer thereof, even though the right so to vote has been suspended by the happening of such a contingency, or (b) are at the time entitled, as such holders, to vote for the election of a majority of the directors (or persons performing similar functions) of the issuer thereof, whether or not the right so to vote exists by reason of the happening of a contingency.

[redacted]

"Tax" means all taxes of any kind whatsoever, including any net income, alternative or add-on minimum tax, gross income, gross receipts, estimated, sales, use, ad valorem, value added, transfer, franchise, profits, withholding, payroll, employment, excise, severance, stamp, capital stock, license, production, capital gains, goods and services, occupation, property, environmental or windfall profits tax, custom, duty or any other like assessment, charge, tax or levy of any kind whatsoever, together with any future payments, interest, penalty, addition to tax or additional amount imposed by any tax authority responsible for the imposition of any such tax (domestic or foreign) whether disputed or not, and including any liability in respect of Taxes as a transferee or under any Tax sharing agreement, Tax indemnity agreement or other Contract, arrangement, agreement, understanding or commitment (whether oral or written) and any liability in respect of Taxes that is payable by operation of law, Treas. Reg. Section 1.1502-6 (or any predecessor or successor thereof or any analogous or similar provision under Law) or otherwise.

[redacted]

"Tax Return" means any return, report, declaration or information return relating to Tax, including any schedule, attachment or amendment thereto, any claim for refund or declaration of estimated Tax required to be filed with any tax authority.

"Total Consideration" means $90,120,000.00.

"Transactions" means the transactions contemplated by this Agreement, including the Stock Sale.

"[redacted]" means [redacted]

Section 10.3 Interpretation and Rules of Construction.

In this Agreement, except to the extent otherwise provided or that the context otherwise requires:

(a) when a reference is made in this Agreement to an Article, Section, Exhibit or Schedule, such reference is to an Article or Section of, or an Exhibit or Schedule to, this Agreement unless otherwise indicated;

(b) the table of contents and headings for this Agreement are for reference purposes only and do not affect in any way the meaning or interpretation of this Agreement;

(c) whenever the words "include," "includes" or "including" are used in this Agreement, they are deemed to be followed by the words "without limitation";

(d) the words "hereof," "herein" and "hereunder" and words of similar import, when used in this Agreement, refer to this Agreement as a whole and not to any particular provision of this Agreement;

(e) references to any statute, rule or regulation are to the statute, rule or regulation as amended, modified, supplemented or replaced from time to time (and, in the case of statutes, include any rules and regulations promulgated under the statute) and to any section of any statute, rule or regulation include any successor to the section;

(f) all terms defined in this Agreement have the defined meanings when used in any certificate or other document made or delivered pursuant hereto, unless otherwise defined therein;

(g) the definitions contained in this Agreement are applicable to the singular as well as the plural forms of such terms;

(h) references to a Person are also to its successors and permitted assigns; and

(i) the use of "or" is not intended to be exclusive unless expressly indicated otherwise.

ARTICLE XI

MISCELLANEOUS PROVISIONS

Section 11.1 **Amendments**. This Agreement may be amended only pursuant to an agreement in writing between the Acquirer and the Selling Stockholder, provided that such written agreement states that it is an amendment of this Agreement.

Section 11.2 **Expenses**. All expenses incurred by any party hereto shall be borne by the party incurring the same unless otherwise specified herein.

Section 11.3 **Notices**. Any notice expressly provided for under this Agreement shall be in writing, and shall be deemed to have been duly given if (a) delivered personally (effective upon delivery), (b) mailed by registered or certified mail, return receipt requested, postage prepaid (effective five (5) days after dispatch), (c) sent via a reputable, established courier service that guarantees next business day delivery (effective the next business day after delivery to such courier) or (d) sent via facsimile or e-mail followed within 24 hours by confirmation by one of the foregoing methods (effective upon the transmission of the facsimile or e-mail in complete, readable form) addressed as set forth below. Any party and any representative designated below may, by notice to the others, change its address for receiving such notices.

Address for notices to the Acquirer or the Company (following the Closing):

c/o Genesee & Wyoming Inc.

[redacted]

with a copy to:

Simpson Thacher & Bartlett LLP

[redacted]

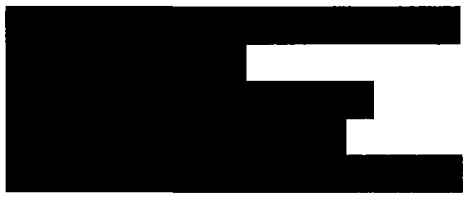
Address for notices to Iowa Pacific, the Selling Stockholder and the Company (prior to the Closing):

Iowa Pacific Holdings, LLC

[redacted]

with a copy to:

Lowis & Gellen LLP



Section 11.4 **Assignment and Benefits of Agreement**. This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors, but may not be assigned by any of the foregoing without the written consent of the Acquirer, in the case of the Company or the Selling Stockholder, and the Selling Stockholder, in the case of the Acquirer; provided, however, that the Acquirer may assign its rights hereunder to any wholly-owned direct or indirect Affiliate of the Acquirer; provided, further, that no such assignment shall reduce or otherwise vitiate any of the obligations of the Acquirer hereunder. Except as aforesaid and except for provisions set forth in this Agreement which purport to grant rights to Persons who are not parties hereto, nothing in this Agreement, express or implied, is intended to confer upon any Person other than the parties hereto and their successors and assigns, any rights under or by reason of this Agreement.

Section 11.5 **Entire Agreement**. This Agreement, including all Exhibits, Schedules and Recitals hereto, contains the entire understanding of the parties, supersedes all prior agreements and understandings relating to the subject matter hereof and thereof.

Section 11.6 **Severability**. In the event that any covenant, condition, or other provision herein contained is held to be invalid, void, or illegal by any court of competent jurisdiction, the same shall be deemed to be severable from the remainder of this Agreement and shall in no way affect, impair, or invalidate any other covenant, condition, or other provision contained herein.

Section 11.7 **Governing Law**. This Agreement shall be governed by and interpreted in accordance with the laws of the State of New York without regard to any choice of law rules that would require the application of any other law.

Section 11.8 **Jurisdiction and Venue**. The parties hereto agree that any suit, action or proceeding arising out of or relating to this Agreement shall be instituted only in a New York state or federal court sitting in the City of New York, N.Y., United States of America. Each party hereto waives any objection it may have now or hereafter to the laying of the venue of any such suit, action or proceeding, and irrevocably submits to the jurisdiction of any such court in any such suit, action or proceeding. THE PARTIES HEREBY IRREVOCABLY WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED IN CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT, ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY OR THE ACTIONS OF THE COMPANY, THE SELLING STOCKHOLDER, THE ACQUIRER OR THEIR RESPECTIVE REPRESENTATIVES IN THE NEGOTIATION OR PERFORMANCE HEREOF.

Section 11.9 **No Strict Construction**. The parties hereto have participated jointly in the negotiation and drafting of this Agreement. Each of the parties hereto represents to the other party hereto that it has discussed this Agreement with its counsel. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties hereto and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provisions of this Agreement.

Section 11.10 **Counterparts**. This Agreement may be executed by the parties in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

Section 11.11 **Specific Performance**. The parties hereto agree that if any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached, irreparable damage would occur, no adequate remedy at law would exist and damages would be difficult to determine, and that the parties shall be entitled to seek specific performance on the terms hereof, in addition to any other remedy at law or equity.

Section 11.12 **Schedules**. Each item disclosed in the schedules referenced in this Agreement shall be deemed disclosed for all such other schedules to the Agreement to which such reference could reasonably be construed to apply on its face.

IN WITNESS WHEREOF, the parties hereto have duly executed this Stock Purchase Agreement as of the date and year first above written.

PERMIAN BASIN RAILWAYS, INC.

By_____
Name:
Title:

ARIZONA EASTERN RAILWAY COMPANY

By_____
Name:
Title:

IOWA PACIFIC HOLDINGS, LLC

By_____
Name:
Title:

GENESEE & WYOMING INC.

By_____
Name:
Title:

VERIFICATION

State of Connecticut)
) ss:
County of Fairfield)

Allison M. Fergus, being duly sworn, deposes and says that she is the General Counsel and Secretary of Genesee & Wyoming Inc., that she has read the foregoing Notice of Exemption and knows the facts asserted therein, and that the same are true as stated.

Allison M. Fergus

SUBSCRIBED AND SWORN TO
before me this 29 day
of July, 2011.

Notary Public

My Commission expires:

Christine Moran
Notary Public-Connecticut
My Commission Expires
August 31, 2012